

# LEGISLATIVE RESEARCH COMMISSION

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## WOMEN'S NEEDS



REPORT TO THE  
1981 GENERAL ASSEMBLY  
OF NORTH CAROLINA  
1982 SESSION



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## REPORT TO THE 1981 GENERAL ASSEMBLY OF NORTH CAROLINA 1982 SESSION

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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
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May 20, 1982

TO THE MEMBERS OF THE 1981 GENERAL ASSEMBLY (1982 REGULAR SESSION):

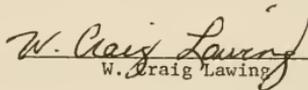
The report, as amended, of the Legislative Research Commission's Committee on Women's Needs made pursuant to Resolution 61 (HJR 1292) of the 1981 Session is attached.

The Legislative Research Commission adopts, approves and recommends to the 1982 Session of the General Assembly recommendations for 1982: A1 and A6 made by its Committee on Women's Needs which are contained in this report on page 32.

The Legislative Research Commission transmits, for informational purposes only, recommendations for 1982: A2 through A5, A7, and B contained on pages 32 and 33 and the 1983 recommendations contained on pages 35 and 36 of this report.

Respectfully submitted,

  
Liston B. Ramsey

  
W. Craig Lawing

Cochairmen



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I N T R O D U C T I O N



## INTRODUCTION

The Legislative Research Commission, established by Article 6B of Chapter 120 of the North Carolina General Statutes, is composed of twelve legislators who study a broad range of subjects authorized for study by the General Assembly (Membership, see Appendix A). During its 1981 Session, the General Assembly directed the Legislative Research Commission to study, among a number of topics, the economic, social and legal problems and needs of women in North Carolina.

Representative John J. Hunt, serving as a member of the Commission, was appointed as Legislative Research Commission member in charge of the study. Senator Helen R. Marvin and the late Representative Robert A. Jones were originally appointed as Cochairpersons of the Committee. Also serving on the Committee were Senators Rachel G. Gray, William G. Hancock, Jr., Marvin Ward, and Representatives Marie Colton, Ruth M. Easterling, Lura Tally, Wilma C. Woodard and public member, Mrs. Alice W. Gatsis. Representative Easterling was later appointed to succeed the late Representative Jones as Cochairperson of the Committee (Membership, see Appendix B).

Staff assistance was provided to the Committee through the Legislative Services Office. Mrs. Shirley Capps served as Committee Clerk.

Resolution 61 (House Joint Resolution [1292]) is an omnibus resolution which authorizes the Legislative Research Commission to study twenty-nine topics, including the economic, social and legal problems and needs of women (Appendix C). This Resolution also enables the Commission to consider "the original bill or resolution in determining the nature, scope and aspects of the study." The resolution to which it refers, House Resolution 1238, (see Appendix D) provides:

Sec. 2. The commission may specifically study:

- a. the potential impact of federal budget cuts on women and also on their dependent children, especially low income working women, female heads of households, AFDC mothers, female social security recipients who presently receive minimum benefits;
- b. the residual sex discrimination contained in common law case law and administrative proceedings of the State of North Carolina;
- c. the extent to which the recommendations of the 1977 Legislative Research Commission Report on Sex Discrimination have been implemented;
- d. any other matters appropriate to the mandate contained in Section 1.a. above.

This report presents a summary of Committee proceedings, findings, recommendations and proposed legislation for action during the 1981 General Assembly, Second Session, 1982 and the 1983 General Assembly. It also recognizes areas where the Committee concludes that additional research and study of the mandated topics would be additionally productive.

COMMITTEE PROCEEDINGS



## COMMITTEE PROCEEDINGS

This report results from three meetings held by the Committee on November 13, 1981, January 18, 1982 and April 5, 1982. The first of these meetings, the organizational meeting, was held with Senator Marvin presiding.

### NOVEMBER 13, 1982 MEETING

The Committee received information reflecting current conditions and needs of North Carolina women. Ms. Miriam Dorsey, Director of the Council on the Status of Women, presented an overview of the status of women in the State. She informed the members that more than half of the State's population is women (51.6 per cent) and 56 per cent of the registered voters in North Carolina are women. Ms. Dorsey's list of major concerns of North Carolina women included employment and education, feminization of poverty, domestic violence, sexual assault, health, and legal problems (See Appendix E).

Ms. Kay Fields, Chief of the Assistance Payments Section of the Department of Human Resources, discussed State and federal financial assistance to women. She estimated that once the changes to Aid to Families with Dependent Children (AFDC) enacted by Congress and effective October 1, 1981, were experienced, there would be a significant impact on the AFDC families (See Appendix F).

While speaking to the issue of the financial needs of older women, Ms. Margaret Riddle addressed the group. She noted that of the 330,000 households in North Carolina below the poverty level, fifty per cent are headed by a female. Thirty-three per cent of those women are over sixty years of age, thirty-two per cent are white and twenty-six per cent are nonwhite. She said that women, as they are getting older, are getting poorer. She remarked that women are losing their freedom of choice about how they want to live out their lives.

She focused on two major contributors to this loss of freedom, the basic policy decisions concerning Social Security (the threat of a system "going broke") and the cultural biases adverse to women which women must face today (See Appendix G).

Speaking on the topics of education and employment issues were:

- (1) Ms. Doris Jacobs, Sex Equity Coordinator,  
Department of Community Colleges;
- (2) Mr. Walter Brown, Sex Equity Coordinator,  
Department of Public Instruction;
- (3) Ms. Ann Whitley, Executive Director of the  
Women's Center in Raleigh; and
- (4) Dr. Chris Battiste, Coordinator and Career  
Counselor, Women's Link Program of Wake County.

Ms. Jacobs spoke to the tremendous need to educate and train women to become more employable. While identifying the largest group of poor people in this country as older women, she noted that if they worked at all, eight per cent, or four out of five of them, worked in the lowest-paying jobs (such as waitress, salesclerk and secretary). She prophesized that one out of four of today's young women can anticipate living their older years in poverty.

To improve this grim picture, Ms. Jacobs discussed how community colleges are helping women, many in the throes of poverty, to restructure their lives. Further exploring the question of what the educational establishment has done to promote equity, she cited Title IX of the Education Amendments Act of 1972. Title IX deals primarily with the guarantee that women and men have equal access to all educational programs, including equal access to financial aid, counseling and extracurricular activities. Additionally she cited Title II (Education Amendments of 1976) which facilitates the entry of women into nontraditional jobs, often through the Community College System and secondary

institutions which teach welding, automotive mechanics and other technical, high-paying jobs. She also cited North Carolina's funding of programs for Community Colleges to get women off welfare by bringing them into these institutions to teach them motivation and how to apply for, interview and keep jobs.

Mr. Brown voiced the commitment that vocational education has made in North Carolina; to eliminate all sex bias, stereotyping and discrimination in vocational education programs. However, he advanced the view that attitudes would have to be changed to provide the kind of training that students need to go out into nontraditional jobs.

Turning to the issue of employment assistance for separated, widowed, and divorced women, Senator Marvin introduced Ms. Ann Whitley, Executive Director of the Women's Center in Raleigh. Ms. Whitley identified the areas in which the center provides assistance to include help with personal problems, marital and parenting concerns, housing, legal problems, abuse, and employment problems. She then introduced Dr. Chris Battiste, Coordinator for the Center's Link Program, an employment assistance program for CETA-eligible, displaced homemakers. Dr. Battiste informed the Committee that the Link Program provides career counseling, support and encouragement to renew self-esteem, reduce self-defeating behavior, and help individuals find the courage to take steps in assuming charge of their lives and learning job search skills. She then alerted the Committee that, because of federal budget cuts and changing priorities at the local level, funds have been cut for the LINK program.

First to speak to the issue of physical and psychological health needs was Ms. Natalie Cohen, Director of Public Affairs, Planned Parenthood of Greater Charlotte. She cited some of the major issues concerning women's health needs in North Carolina: access to services (particularly for poor women, teenagers and women in rural areas), development of more creative, innovative and acceptable health care delivery, abortions, free-standing clinics, and teenage preg-

nancies. Citing teenage pregnancy as the number one issue, she urged sex education in the schools in order to prevent unwanted teenage pregnancies.

Focusing on a topic with tremendous physical and psychological health repercussions, Mr. Phillip Lyon, Attorney General's Representative to the Sexual Assault Task Force, spoke to the Committee on some of the problems of rape victims and victims of sexual assault. He not only cited the problems of victims of sexual assault and rape by a stranger but he also stated that fifty per cent of all runaway girls had been sexually abused by their fathers, surrogate fathers, brothers, etc. and that this percentage could be as high as eighty per cent. However, the money needed to operate Rape Crisis Centers or shelters for treatment for these runaways is being cut and many services are no longer available.

Finally, speaking on the issue of spouse and child abuse appeared Ms. Sandra Sink, Executive Director of Wake County Women's Aid. She cited needs for families experiencing violence which might be addressed by the General Assembly as: full enforcement of the existing laws, a legal defense fund for women who need legal services, additional legal advisors, protective orders, litigation and other services concerning domestic issues such as support and custody, support for abuser programs, counseling programs that are court-ordered, witness support services in criminal cases, training for magistrates, law enforcement officers and the legal community in general to learn special laws applicable to family violence. She too, cited the unavailability of funds to support the needed programs.

Ms. Carol Spruill, Staff Attorney for East Central Community Legal Services and representative of the Association of Women Attorneys, cited five major areas that require legal redress. These were: child support, Aid to Families with Dependent Children (AFDC) to unemployed parents, exclusive male control of entireties property, amendments to the equitable distribution of property act.

and domestic violence program funding. Ms. Spruill's description of society as increasingly a two-income family, leaving the one-income family the poorer family, provided the basis for her determination that there is an immediate and increasing need for stronger child support enforcement laws. She discussed a suit in which she represents women who allege that the Social Security Act (as amended in 1974) includes a Child Support Enforcement Program with services which are supposed to be made available to them as non-AFDC recipients, as well as to AFDC recipients.

Her second point was that AFDC payments should be made available to households with both parents in the home (neither parent disabled) when neither parent is working (although the supporting spouse would be required to keep looking for a job). Her rationale is that families are better off if they stay together and with the rising rate of unemployment, the extension of this program is more important than ever.

She further described as inequitable, the North Carolina law that prescribes if a husband and wife own property by the entireties that produces rents and profits, the husband has a right to manage and collect these profits and he does not have to account to his wife for them.

She then suggested three possible amendments to the equitable distribution of property bill (Chapter 815, 1981 Session Laws) as follows: a clear statement enabling judges to issue restraining orders to preserve the property and otherwise the status quo during the year of separation, an inclusion of pensions as marital property, and a redefinition of separate property which would not include the increase in the value of separate property during the marriage.

Her fifth and final plea was for money for projects to prevent domestic violence and to provide counseling and other assistance to victims of domestic violence (See Appendix H).



The second meeting of the Study Committee primarily focused on domestic law problems. Following its receipt of this testimony, the Committee discussed Committee recommendations which were discussed at the previous meeting and received additional testimony concerning the status of women in North Carolina.

Testimony concerning domestic law was initiated by Judge John H. Parker, Wake County District Court Judge. After observing approximately 10,000 domestic relations cases, Judge Parker cited seven major problems in Domestic Court as follows:

- (1) Children experience severe stress during the process of a divorce.
- (2) Visitation disputes are almost insoluble.
- (3) Parties do not trust each other.
- (4) The adversary process of determining child custody is not always in the best interest of the child and is devastating to both parties.
- (5) Time is a problem in that the caseload is so heavy and it takes time to get into Court.
- (6) It is expensive to litigate in Court.
- (7) The Criminal Court is not a good forum, at least in Wake County, for the enforcement of child support.

In order to address these problems, Judge Parker specifically urged:

(1) providing trained support personnel to assist domestic court judges, such as psychologists (2) study of the issue of returning the Domestic Court to the Superior Court (3) mandatory garnishment of wages of the supporting spouse who refuses to pay child support (do not include alimony) and (4) that an administrative procedure be established to insure child support enforcement when a payment is missed.

Following Judge Parker's testimony the Committee heard the statement of Mr. Clifton H. Duke, Assistant Attorney General representing the State's Child Support Enforcement Program (4-D Program). He cited the need for a triggering

method to get delinquent child support payments made without requiring the supporting spouse to hire a lawyer. His other suggested improvements in the law included: the mandatory garnishment of an employee's salary, while allowing a small administrative fee to the employer, to insure payment of overdue child support in criminal actions; child support confirmed as a judgment and not reduced; and punishment for child support, which was reduced from two years to six months, should be returned to a two-year sentence. He also recommended that legislation clarifying the evidentiary basis on which blood tests would be admitted to prove paternity should be prescribed. Additionally, he explained that under current law a mother of an illegitimate child can be prosecuted at any time until the child is eighteen years of age if she does not support it and that a putative father can generally only be prosecuted for a much shorter time in criminal actions. He urged that the standard of "clear and convincing evidence" should be adopted in criminal and civil actions to establish paternity. Finally, Mr. Duke suggested that the Committee examine extending the time in which to file an out-of-state notice of appeal in the Uniform Reciprocal Enforcement of Support Act (URESA) because it takes more time to get the papers to their destination from out-of-state.

Additional, corrective, legislative concepts were advanced by Ms. Carol Spruill, staff attorney for East Central Community Legal Services and a representative of the North Carolina Association of Women Attorneys. She stated that once divorced, women are the custodial parent in most cases. At the same time they are paid very little and they are unable to collect child support, consequently they are the ones rearing children in "near poverty." One solution for nonpayment of child support would be to allow interest to be charged on all payments in arrears or allow a civil penalty to be imposed if the supporting parent is found to have totally disregarded the payment even though that parent has the means to make it. She also suggested a mandatory

weekend jail sentence for the second offense of nonpayment of child support. Additionally, in the present context where women are generally paid lower salaries than men for the same work, she feels that attorneys fees should be awarded to the dependent spouse where she has limited resources and the supporting spouse fails to pay without a just cause.

Testifying to the need for additional assistance for children and dependent spouses, appeared Mr. Travis Payne, attorney with the firm of Edelstein and Payne and formerly with legal services. His address concerned the 4-D Program, the child support program, and he touched briefly on the lawsuit which has been filed in Charlotte (requiring the State to seek child support for non-public assistance recipients). He noted that the problem of nonsupport is broader than is indicated by the Aid to Families with Dependent Children roles and that many families might be able to avoid the necessity of applying for welfare if they had adequate assistance in obtaining support from the absent parent.

Mr. Payne pointed out that some custodial parents, who have low-paying jobs and cannot get the child support payments increased without going back to court (which they cannot afford), would be financially better off to quit their jobs and go on welfare. He informed the Committee that the federal government will pick up seventy-five (75) per cent of the cost of the child support program. (Mr. Payne referred to two tables which showed the North Carolina Statistics for Child Support Enforcement Program and the United States Statistics for Child Support Enforcement Program [Appendix I]). Also Congress, when it addressed the issue of providing services for nonwelfare recipients, meant for that portion of the program to be self-sustaining. Mr. Payne then proceeded to give a bit of history of why the North Carolina Child Support Enforcement Program was developed and chose not, for the most part, to help nonwelfare recipients. He stated that the State Bar was opposed to the idea of assistance for nonwelfare recipients, therefore the assistance was reduced

drastically. He noted one way to support the child enforcement program is to collect a portion of the money in arrears, deduct a small percentage for costs and then the State would be able to finance the lawyers and any other apparatus necessary to provide the services necessary to bring the cases to court. Another way is to utilize the "friend of the court," who in most cases is not a lawyer, but a designated individual who can go into court and initiate proceedings and make suggestions to the judge concerning the case. In North Carolina this would be considered unauthorized practice of law by the State Bar. He feels the legislature should look into the matter of getting these people into court without the services of a lawyer or financing the services of a lawyer on a mass basis for those people.

Following the receipt of the morning's testimony the Committee instructed Committee Counsel to research the concepts and work with the Committee leadership to develop drafts of the legislation discussed. Also, the staff was requested to prepare three amendments to the Equitable Distribution of Marital Property Act (Senate Bill 24, ratified 1981 Session). The amendments would address:

- (1) The Court's issuance of a temporary restraining order to prevent the unauthorized disposal of marital property,
- (2) the inclusion of income from separate property and the increase in value of separate property which accrues during the marriage as marital property, and
- (3) the inclusion of pension rights as marital property.

During the remainder of the meeting the Committee members listened to testimony on the status of North Carolina women. Mrs. Nancy G. Brooks, a homemaker, physicist and professional musician from Chapel Hill stated that she thought women in the State would benefit from conferences on richer homemaking and child rearing. She also urged that women who adhere to an "anti-feminist" philosophy be placed on the Council on the Status of Women. Mrs. Pat Rust, a homemaker and accountant from Chapel Hill expressed the opinion that the Council

is functioning in a capacity beyond the role of an advisory agency. She expressed great reservations concerning the Council's development of programs for training women in nontraditional jobs. She further urged that all of the Council on the Status of Women's programs be examined to see whether results justify expenditures and all which do be transferred to another governmental agency.

Comments critical of the involvement of government in the problems of the elderly were provided by Mrs. Fannie L. Thomason, homemaker and mother from Fayetteville. She asserted that women have "in place adequate services to provide for the elderly" and proposed that no new state or federal programs to assist the elderly be initiated (Appendix J). She also read remarks from Mrs. Tish Browning, Director of Volunteer Training for a chapter of Birthchoice of Fayetteville, who feels that the goals and attitudes of Planned Parenthood do not follow the real needs of women and should not be expanded.



In an effort to translate concepts into action, the Committee devoted most of its third meeting to its review of twelve pieces of proposed legislation and several resolutions. Senator Marvin cited concerns such as alternative work schedules, the impact of block grants on women, changes to North Carolina's Equitable Distribution Law (Ratified 1981 Session), among others, which the Committee had been unable to address due to the large number of topics needing study and the limited amount of time and funding available for the Committee's work. The leadership then committed itself to seek additional funds in order that the Committee might continue its work following the 1982 Short Session of the General Assembly.

Discussion of AN ACT TO ESTABLISH PROCEDURES TO INSURE PAYMENT OF MAINTENANCE OR CHILD SUPPORT (Appendix K).

The Committee began its deliberation of the bills with proposed legislation to establish procedures to insure payment of maintenance or child support. Mr. Franklin Freeman, Director of the Administrative Office of the Courts, spoke primarily to the issue of cost to implement this proposal.

He said that the present court system utilizes accounting systems, of which 69 of the 100 are manual and nonsupport information is recorded by hand. The other 31 counties have varying types of electronic equipment that posts the information on a ledger card (a separate card for each individual's case). He stated that the information which the proposed bill would require is presently maintained by the clerk and there would be no cost increase to comply with this portion of the bill.

However, Mr. Freeman pointed out that the ledgers are generated by the first payment; generally not when the order is issued by the court requiring the support payment. He explained that this procedure exists because it has

always been assumed that it was somebody else's responsibility, generally the District Attorney's, to enforce the court order.

Currently some counties review accounts and assist in enforcing the orders but there is no customary procedure followed in every county to keep up with the arrearage and send out letters to the supporting spouse in arrears. Mr. Freeman continued that any involvement by the Clerk's accounting personnel has generally been limited to an exception basis. By exception basis, he meant that if someone complains through the Clerk's office that they have not received their support payment (the complaint comes from the District Attorney's office, a Judge, the complainant, or else the prosecuting witness), the Clerk's office will then figure out the arrearage and prepare that information for the District Attorney so that a "Show Cause Order" can be issued by him to bring the defendant in to show cause why he should not be held in contempt of court by failing to comply with the judgment. Mr. Freeman assessed that the proposal would be somewhat expensive now and in the future due to the additional costs that would be required for employees and equipment.

Based on a sampling of eight counties, Mr. Freeman projected that presently thirty (30) per cent of the supporting spouses ordered to do so are not paying child support. Allowing three minutes to review the accounts in arrears, Mr. Freeman estimated that under the present system it would require 1200 hours a month of the Clerks' time to perform this task.

Mr. Freeman estimated that if this procedure to insure payment of child support were implemented, the costs for a thirty (30) per cent failure rate would include: \$57,600.00 annually for first class postage, \$400,050.00 to compensate thirty-one (31) new employees, and \$9,840.00 for equipment (See Appendix L).

Judge Parker observed the great need to insure payment of child support. He stated that often women do not have the money to pay their rent, for food or

clothes for the children. Many of these children also have learning disabilities and need psychological counseling and they do not have funds to hire an attorney. He stated that an attorney in Wake County will not take the case to increase child support or to collect the arrearage for less than \$250.00 or \$300.00 per case. Most of the women that are in court are not making that much money a week or month in part because most work part-time. He pointed out the advantage of providing an automatic procedure to insure child support is that it would provide for those cases where women do not have the money to get into court. Primarily Judge Parker expressed his concern for the children who have a right to be supported and who must rely on the mother who is the least able to enforce that right, to get into court and do something about it. He then predicted that if word gets out that if you do not pay your child support you automatically get back into court, the problems that the Clerks have to deal with would not be as great as they are now because most people do not want the hassle of going to court or dealing with the law. In summary, Judge Parker cited this bill as the most important of the twelve pieces of legislation to be considered by the Committee.

Wake County District Attorney, Mr. Randolph Riley stated that the District Attorneys Association favors this legislation. He further noted that presently the motion to show cause why a person should not be held in contempt for failure to pay his child support is simply a continuation of the initial action and no further costs accrue. Therefore, he recommended that the Committee consider modifying the legislation to state that in the event this motion is served, additional costs will accrue (whether in District Court or Superior Court). Mr. Clifton Duke, Assistant Attorney General with the IV-D Program evaluated the advisability of assessing costs by pointing out that often the Defendant has a low income and might finally pay the dependents less due to the assessment of court costs.

Discussion of AN ACT TO ALLOW MODIFICATION ONLY AS TO INSTALLMENTS ACCRUING SUBSEQUENT TO THE MOTION TO MODIFY A JUDGMENT FOR CHILD SUPPORT (See Appendix M).

Committee members discussed and supported the policies established by this proposed legislation. If this bill is passed by the General Assembly, counsel is urged to consider reviewing the current law addressing priorities of claims against estates to determine if any change will be needed there.

Discussion of AN ACT TO AMEND G.S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO A PARTY ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD (See Appendix N).

Former Wake County District Court Judge John Parker noted that separate hearings are being held increasingly for the payment of attorneys fees. This increases the costs to the dependent spouse and slows down the legal process. It is used as a device to force the wife into settlement because it is difficult to get attorneys fees under the present law that exists. Often it takes five to seven hours of work for attorneys to get together the information needed, according to case law, to prove attorneys fees as required by the present G.S. 50-13.6. Secondly, once the Judge awards child support to the wife (often as a compromise gesture) the court will not award her attorneys fees, thus depriving the children of that amount of support. Although there are some cases in which the dependent spouse should pay attorneys fees, Judge Parker noted that in his experience, unequivocally three fourths are there because of the male ego. He continued by stating that the woman has married a little boy that has never grown up and the family should not be forced to bear the cost of attorneys fees to defend the rights of the children. This proposed legislation would speak very succinctly to those two issues.

Mr. Gregory Malhoit, Director of East Central Community Legal Services of North Carolina, expressed concern that the payment of attorneys fees that are

"substantially justified" may allow too many defendants to get out of paying attorneys fees. He recommended awarding attorneys fees to the prevailing party.

Discussion of TWO BILLS TO INCREASE THE SANCTION IMPOSED ON THOSE WHO FAIL TO FULFILL THEIR CHILD SUPPORT OBLIGATIONS (See Appendices O and P).

Mr. Duke explained that the bill amending G.S. 14-322(f) would enable a judge to increase the penalty on those who fail to fulfill their child support obligations in a criminal action from six months to two years. He continued that the earlier penalty had been reduced from two years to six months as a means of avoiding the cost of providing counsel. Mr. Duke testified that this is no longer the determinate factor. Because he has been involved with cases in which the judge expressed frustration in handling criminal cases without a greater sanction to assure support payments, he recommended this legislative concept during the previous meeting. The proposed legislation amending Chapter 49 would allow the same latitude in imposing penalties in bastardy proceedings. Finally, he commented that judges have commented it is helpful if sanctions of the criminal law reflect the seriousness of how society views a particular crime.

Discussion of AN ACT TO REWRITE G.S. 49-4 TO ALLOW THE INSTITUTION OF THE PROSECUTION OF A REPUTED FATHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD ATTAINS THE AGE OF EIGHTEEN YEARS (See Appendix Q).

Mr. Duke testified that the North Carolina Court of Appeals struck down a similar statute which applied to civil actions. The court found the statutory periods imposed to be a denial of equal protection because there existed no limit on support actions on behalf of legitimate children until they were eighteen years of age. Also, he noted that the present law imposes an aspect of sex discrimination in that the time limit imposed within which to prosecute the mother is much greater than the time during which the putative father may be prosecuted.

Discussion of TWO BILLS TO CHANGE THE BURDEN OF PROOF WHEN ESTABLISHING PATERNITY (Appendix R and S).

Mr. Duke commented that he believed North Carolina to be the only state in this country to maintain that paternity must be established "beyond a reasonable doubt" in civil cases. He also believes that there exists an analogy with terminating parental rights and establishing parentage and parental obligations. He stated that the U. S. Supreme Court has ruled that the lowest civil standard may be applied when terminating parental rights and he asserted that this standard should be applied when establishing parental rights.

Mr. Duke urged that once the standard "clear and convincing" is adopted for civil paternity actions, the application of the outcome of the civil proceeding in criminal actions would require that the "clear and convincing" standard be applied to criminal cases. Once the "clear and convincing" standard would be applied to determine paternity, then application of the "beyond a reasonable doubt" standard would be made to the other elements necessary to establish wilful non-support.

Mr. Malhoit expressed his concerns regarding changing the standard of proof in a criminal case. He noted that even if courts have ruled that the issue of paternity in a criminal case is incidental to the issue of non-support, it still is the most important part of a criminal case. He recommended that the committee request an Attorney General's opinion on whether the North Carolina Constitution can allow a standard of proof less than "beyond a reasonable doubt" in a criminal case. Also, the lack of blood grouping tests that are provided in criminal cases is also a major concern of Mr. Malhoit's. He asserted that non-scientific evidence can be introduced in these proceedings that will show the possibility of paternity with a 99.9 per cent degree of accuracy but presently those tests are only available to defendants who pay for them. If the defendant happens to be indigent he is not going to receive the

benefit of those tests. Mr. Malhoit continued that if he is not going to receive the benefit of those tests then he would have difficulty removing the protection of the "reasonable doubt" standard which provides a greater degree of protection for these defendants. However, he concluded that if this Committee and the General Assembly were to enact a provision that required the provision of these blood tests in every case, regardless of the financial status of the defendant, then it seems reasonable that a "clear and convincing" standard that is proposed here would be fair. He added, there is a Supreme Court decision that came down a year ago on a statute in North Carolina that held that it was unconstitutional not to provide these blood tests to indigent defendants and he urged the Committee to consider this legislation in addition to the proposed provisions.

Finally, citing ways in which the costs of the test could be paid, Mr. Malhoit noted that if the defendant were found to be the father then he could be ordered to pay the cost as part of the support obligation. Also, in many cases the mother of the children is a welfare recipient and medicaid can pay for as much as two-thirds of the cost of blood tests. After all, he warned, if the wrong person is determined to be the father of the child by mistake, he will not make the support payments.

Mr. Duke commented that he felt that if the defendant were indigent and if the case were decided in North Carolina under the U. S. Supreme Court opinion cited, it appears to him that the indigent defendant would have a right to the test. He also thought that the test is important objective evidence that does pair with lowering the burden of proof to a "clear and convincing" standard.

Discussion of AN ACT TO AMEND G.S. 14-322 TO PERMIT GARNISHMENT OF UP TO FORTY (40) PER CENT OF THE WAGES FOR FAILURE TO PROVIDE CHILD SUPPORT (Appendix T).

Mr. Duke initiated the comments by asserting that garnishment is an exceedingly effective remedy. Garnishment provisions for child support have been in place since the 1979 legislature. In response to a question, he explained that for the IV-D Program garnishment results in an order directed to the employer to deduct from the employee's wages a specified amount which he pays to the Clerk of Court. The Clerk then pays this amount to the creditor.

In Mr. Riley's estimation, he commented that the Committee could not do anything to provide more movement in the collection of judgments than to enact this provision. In his view it is well worth whatever effort the mechanics require.

Discussion of THREE AMENDMENTS TO THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT.

The first bill discussed, AN ACT TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO INCLUDE THE INCOME FROM SEPARATE PROPERTY AND INCREASE IN VALUE OF SEPARATE PROPERTY WHICH ACCRUES DURING THE MARRIAGE AS MARITAL PROPERTY, addresses the issue of whether income from separate property acquired during the marriage should be treated as marital property and subject to division by the court (Appendix U). Senator Marvin explained that the treatment of this property as separate property was not in the original bill, but the enacted language treating income from separate property as separate property resulted from a compromise to insure passage of the bill.

Ms. Jane Atkins, representing the North Carolina Association of Women Attorneys expressed the Association's support of this amendment and discussed the philosophy of equitable distribution.

Secondly, the Committee considered AN ACT TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO INCLUDE PENSION RIGHTS AS MARITAL PROPERTY (Appendix V).

Ms. Atkins emphasized the importance of this issue in that sometimes one of the major assets of a family is its retirement benefits. She stated that if an older couple is divorced as retirement age approaches, then without having the retirement benefits included, the dependent spouse cannot reach very much under equitable distribution.

The third bill, AN ACT TO AMEND EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY was cited as the most urgently needed of the three amendments (Appendix W). Because, according to the equitable distribution law the distribution cannot take place until after the divorce is granted, there is concern that a spouse will dispose of the marital property during the time the spouses are separated. Ms. Atkins commented that the single biggest problem of equitable distribution involves a spouse hiding assets.

Discussion of HOUSE BILL 67 (TENANCY BY THE ENTIRETY) (Appendix X).

Ms. Miriam Dorsey, Director of the Council on the Status of Women, questioned the estimated two million dollar loss in revenue to the State, which was cited to the Senate Ways and Means Committee and the explanation given her why the bill was not reported favorably by the Committee. The fiscal note prepared for legislators explained that this loss would result from the fact that if HB 67 passed the State would tax one-half of the rental income held in the entirety to each spouse rather than tax it all at the generally higher rate to the husband. This law arises from the common law whereby the husband controlled all the rents and profits and the wife had no control over the property. Ms. Dorsey stated that the bill has passed the House and that thousands of women across the state are working to promote its passage. She further reported to the Committee that the North Carolina Home Extension Group (composed of 25,000 homemakers) along with the North Carolina Center for Women and the Law are

urging the passage of this legislation. Also, the North Carolina Extension Homemakers has requested a public hearing on the bill on June 9, 1982.

In response to a specific request from the Committee, Ms. Jane Patterson, Secretary of the Department of Administration, appeared to respond to the Committee's questions concerning the Council on the Status of Women. She explained that the Council on the Status of Women was created as the Commission on the Status of Women in 1963 by Executive Order of Governor Terry Sanford. The statutory basis authorizing its existence was enacted in 1965 and in 1972 funds were appropriated to hire a staff. After several name changes it was renamed the North Carolina Council on the Status of Women in 1975. Additional responsibilities were given to the Council by the 1977 and 1979 General Assemblies.

The Council was once composed of seven members but is now composed of twenty members who are appointed by the Governor. The membership includes homemakers and business people and reflects different racial and geographic groups. Members serve two-year terms, which are staggered.

The Council's primary purpose is to advise the Governor, the North Carolina Legislature and principal State agencies concerning the education and employment of women in North Carolina. The Council works to collect and distribute information concerning women's needs and to coordinate efforts to meet the needs of women on the county and regional level. Specifically, the Council has established task forces on Women and North Carolina Law, the Needs of Minority Women and Women and Economic Development. Other ongoing task forces are those on Sexual Assault and the Governor's Task Force on Domestic Violence (See Appendix Y).

As presiding Cochairperson, Senator Marvin recognized Representative Wilma Woodard who made the following statement in the form of a motion:

I move that this bill to ratify the Equal Rights Amendment be included as part of the report of this Committee. I further move

that this Committee recommend that this bill be enacted by the General Assembly no later than June 30, 1982. I further move that if there are any technical errors, defects, or problems of a technical nature not affecting the substance of the bill, that this Committee authorize the Director of the Legislative Drafting Division to make any necessary changes to put this bill in the proper form to be introduced and acted upon by the General Assembly without further action by this Committee.

(See Appendix Z for ERA).

The Committee discussed the timing of the motion and it was pointed out that a so-called "Gentleman's Agreement" had been made by some Senators not to bring up the ERA issue again during the 1981-82 Session of the General Assembly. Representative Jones stated his objection to the motion and his concern regarding the controversy the issue would arouse and the time this would consume in the Short Session.

Representative Ruth Easterling and Senator Gerald Hancock voiced their approval of the motion and explained their reasons for believing this Committee is obligated to recommend ratification in the June Session of the General Assembly.

It was then concluded that the ERA profoundly affects the Committee's charge to address the social, economic, and legal rights of women and Representative Woodard's motion was passed with only two negative votes.

Finally, the Committee centered its attention on funding necessary to continue the work begun with the passage of the Domestic Violence Act of 1979. Ms. Dorsey stated that 14 shelters for victims of domestic violence have been established in this State. However, this start was from seed money from the federal government. Because this money is no longer available, Representative Brennan has introduced legislation providing for direct appropriations to develop

these programs and continue to support those established (See Appendix AA). Ms. Dorsey also described the situation which is commonly described by law enforcement officers who testify that often there exists no place to take people who are victims.

With a commitment from the leadership to seek additional funding for the Committee to continue its examination of the economic, social and legal needs facing the women of North Carolina, the Committee adjourned.

FINDINGS



## FINDINGS

After having reviewed the information presented at its meetings and by pursuing the specific topics mandated for study by the 1981 General Assembly, the Committee studying the economic, social and legal problems and needs of the women of the State of North Carolina makes the following findings:

1. Poverty in North Carolina is becoming increasingly feminized. Although most households are headed by men, fifty per cent of the households in North Carolina below the poverty level are headed by women. As women are getting older they are getting poorer. Additionally, with the reduction in federal financial assistance, women, especially women with dependent children will experience a reduction in their already meager income.
2. Women generally fill the lowest-paying positions in the work force. Generally women fill the lowest-paying jobs and are disproportionately absent from the management level of the work force. Government studies indicate that women of comparable skills, experience and education are paid \$.59 for every \$1.00 a man receives for performing the same job.
3. Special assistance is needed for women to better enable them to enter the work force and particularly to have access to many higher-paying, nontraditional jobs. More and more women are finding themselves separated, widowed or divorced. This often places a woman in the position of changing from the role of homemaker to a competitor for jobs in a work force requiring specialized skills. These women are in need of support and encouragement to renew their self-esteem and to acquire the job skills necessary to enable them to care for themselves and their families. Emphasis should be placed on making the necessary education and job-training available to women in their community where many can continue to provide for their families.

4. Women have special health needs which are not being met.  
Women in rural areas or women who are minors or poor have greater problems acquiring access to health services. Teenagers are in particular need of sex education and counseling, as evidenced by the rising rate of teenage pregnancies.
  
5. Women are uniquely the subjects of violence, both as victims of rapes and objects of domestic violence. Testimony indicates that anywhere from fifty to eighty per cent of all runaway girls have been abused by their fathers, surrogate fathers, brothers, etc. It is estimated that most cases of spousal abuse goes unreported but the statistics are alarming. However, services for both victims of rapes and domestic violence may not be established as needed and those presently established may be reduced or eliminated due to the reduction in federal funds available for these services.
  
6. The cost, in terms of human suffering, due to the absence of sufficient means to provide for the dependent spouse and children of the family is great and negatively impacts the quality of life in this state. The apparent effects resulting from this situation range from inadequate supervision of the children (custodial spouse must work and is without means to provide adequate child care) to unsanitary and unhealthy living conditions. The stress and general psychological harm resulting from the absence of adequate financial support and/or the sporadic receipt of support is difficult to quantify but evident.
  
7. Women not receiving their court-ordered child support often do not utilize the court system because they are ignorant of the process, intimidated by their present or former spouses, or do not have the means to hire a lawyer to insure payment of child support. In most cases the dependent spouse is unfamiliar with the court system and, if not receiving child support, is even less able to engage the services of an attorney to proceed with her case. Evidence indicates a great need to provide prompt assistance to the dependent spouse whose court-ordered child support is in arrears because, in many cases not only is the family immediately unable to pay its bills, but the larger the

arrearages grow, the more difficult, if not impossible it is to collect. Additionally, nonpayment of child support is used as a method to harass the dependent spouse who is often informed she or he should not pursue the children's right to support or her custodial status will be challenged and her general welfare may be threatened.

8. The implementation of an administrative procedure to insure the payment of child support should save taxpayers many times the cost of establishing it. Citing the cost of Aid to Families with Dependent Children, other welfare programs, pensions, and community support services which would be sharply reduced if child support payments were collected, the Committee calculated that the establishment of an administrative court procedure to insure payment of child support would return significantly more income than the start-up investment would require.
  
9. Full legal rights and control over a woman's property is equitable and necessary to protect her right to her property. The inability of North Carolina wives to assert equal control over property which they own with their husbands (as tenants by the entirety) results from a common law precedent that assumed women are uneducated and incapable of managing their property. Not only is this policy long outmoded but it limits a woman's rightful access to her share of control, rents and profits of her own property.



RECOMMENDATIONS  
TO THE 1981  
GENERAL ASSEMBLY OF NORTH CAROLINA  
SECOND SESSION, 1982



## RECOMMENDATIONS

A. The Committee studying the economic, social and legal problems and needs of the women of the State of North Carolina respectfully submits the following recommendations for consideration by the Legislative Research Commission and the 1982 Short Session of the General Assembly.

1. THE COMMITTEE RECOMMENDS THE INTRODUCTION AND RATIFICATION OF THE EQUAL RIGHTS AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES BY JUNE 30, 1982 (Appendix Z).
2. THE COMMITTEE RECOMMENDS THAT A PUBLIC HEARING BE SCHEDULED FOR JUNE 9, 1982 TO RECEIVE TESTIMONY REGARDING THE PASSAGE OF HOUSE BILL 67 (TENANCY BY THE ENTIRETY) (Appendix X).
3. THE COMMITTEE RECOMMENDS THE PASSAGE OF HOUSE BILL 67 (TENANCY BY THE ENTIRETY) (Appendix X).
4. THE COMMITTEE RECOMMENDS PASSAGE OF HOUSE BILL 1148 TO INSURE FUNDING FOR SPOUSE ABUSE CENTERS (Appendix AA).
5. THE COMMITTEE RECOMMENDS THE PASSAGE OF LEGISLATION TO INCREASE THE PENALTY FOR NONSUPPORT IN BOTH BASTARDY AND CRIMINAL CASES (PASSAGE OF COMMITTEE SUBSTITUTE FOR HB 1217 TO INCLUDE BASTARDY CASES) (Recommended Legislation L-1).
6. THE COMMITTEE RECOMMENDS THE INTRODUCTION AND PASSAGE OF LEGISLATION AUTHORIZING PROSECUTION OF A PUTATIVE FATHER IN CRIMINAL PATERNITY ACTIONS UNDER THE SAME CIRCUMSTANCES AS THE MOTHER (UNTIL CHILD ATTAINS EIGHTEEN YEARS OF AGE) (Recommended Legislation L-2).
7. THE COMMITTEE RECOMMENDS THAT THE LEGISLATIVE RESEARCH COMMISSION PROVIDE IT WITH ADDITIONAL FUNDING TO ENABLE IT TO CONTINUE ITS STUDY OF THE ECONOMIC, SOCIAL AND LEGAL NEEDS OF WOMEN.

B. The Committee studying the economic, social and legal problems and needs of the women of the State of North Carolina endorses the concept of LEGISLATION ESTABLISHING ADMINISTRATIVE PROCEDURES TO INSURE PAYMENT OF MAINTENANCE OR CHILD SUPPORT and recommends further study of the procedural aspects by the Legislative Research Commission to the end that findings and recommendations may be made to the 1983 General Assembly (Appendix K).

RECOMMENDATIONS  
TO THE 1983  
GENERAL ASSEMBLY OF NORTH CAROLINA



## RECOMMENDATIONS

A. The Committee studying the economic, social and legal problems and needs of the women of the State of North Carolina respectfully submits the following recommended legislation for consideration by the Legislative Research Commission and the 1983 Session of the General Assembly:

1. LEGISLATION TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY (Recommended Legislation L-3).
2. LEGISLATION TO ALLOW MODIFICATION OF ONLY THE CHILD SUPPORT PAYMENTS WHICH ACCRUE FOLLOWING A SHOWING OF CHANGED CIRCUMSTANCES (Recommended Legislation L-4).
3. LEGISLATION REQUIRING THAT COUNSEL FEES BE AWARDED TO THE PARTY ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF A MINOR CHILD (Recommended Legislation L-5).

B. The Committee studying the economic, social and legal problems and needs of the women of the State of North Carolina recommends further study of the following proposed legislation by the Legislative Research Commission to the end findings and recommendations may be made to the 1983 General Assembly:

1. LEGISLATION TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO INCLUDE THE INCOME FROM SEPARATE PROPERTY AND INCREASE IN VALUE OF SEPARATE PROPERTY WHICH ACCRUES DURING THE MARRIAGE AS MARITAL PROPERTY (Appendix U).
2. LEGISLATION TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981 TO INCLUDE PENSION RIGHTS AS MARITAL PROPERTY (Appendix V).
3. LEGISLATION TO CHANGE THE BURDEN OF PROOF IN CIVIL ACTIONS TO ESTABLISH PATERNITY FROM "BEYOND A REASONABLE DOUBT" TO "CLEAR AND CONVINCING EVIDENCE" IF EVIDENCE OF HIGHLY CONCLUSIVE BLOOD TESTS IS ADMITTED (Appendix BB).

4. LEGISLATION TO CHANGE THE BURDEN OF PROOF IN CRIMINAL ACTIONS TO ESTABLISH PATERNITY FROM "BEYOND A REASONABLE DOUBT" TO "CLEAR AND CONVINCING EVIDENCE" IF EVIDENCE OF HIGHLY CONCLUSIVE BLOOD TESTS IS ADMITTED (Appendix BB).
5. LEGISLATION TO PERMIT GARNISHMENT OF UP TO FORTY PER CENT OF WAGES FOR WILFUL FAILURE TO PROVIDE CHILD SUPPORT IN CRIMINAL ACTIONS (Appendix T).

R E C O M M E N D E D   L E G I S L A T I O N











## INTRODUCED BY:

## Referred to:

- 1 A BILL TO BE ENTITLED
- 2 AN ACT TO AMEND G.S. 50-11.2 TO ALLOW MODIFICATION ONLY AS TO INSTALLMENTS
- 3 ACCRUING SUBSEQUENT TO THE MOTION TO MODIFY A JUDGMENT FOR CHILD
- 4 SUPPORT.
- 5 The General Assembly of North Carolina enacts:
- 6 Section 1. G.S. 50-11.2 is rewritten to read:
- 7 §50-11.2 Judgment provisions pertaining to care, custody, tuition
- 8 and maintenance of minor children. --
- 9 (a) Where the court has the requisite jurisdiction and upon proper
- 10 pleadings and proper and due notice to all interested parties the judgment
- 11 in a divorce action may contain any provisions respecting care, custody,
- 12 tuition and maintenance of the minor children of the marriage that the
- 13 court adjudges; and from time to time those provisions may be modified
- 14 upon due notice and hearing and a showing of substantial change in condition;
- 15 and if there are no minor children, the judgment may so state. The juris-
- 16 dictional requirements of G.S. 50A-3 do apply in regard to a custody decree.
- 17 (b) A decree respecting maintenance or support of a minor child
- 18 may be modified only upon a showing of changed circumstances so substantial
- 19 and continuing as to make the terms unconscionable. The provisions as
- 20 to property disposition may not be revoked or modified unless the court
- 21 finds that conditions exist which justify reopening of a judgment.
- 22 (c) The modification of the provisions of any decree respecting
- 23 maintenance or support of a minor child shall apply only to installments
- 24 accruing after the filing of the motion for modification.

1 (d) Unless otherwise agreed in writing or expressly provided in  
2 the decree, provisions for the support of a child are terminated by emanci-  
3 pation of the child but not by the death of a parent obligated to support  
4 the child. When a parent obligated to pay support dies, the amount of  
5 support may be modified, revoked or changed to a lump sum payment, to  
6 the extent just and appropriate in the circumstances."

7 Sec. 2. This act shall become effective October 1, 1982.

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SESSION 19<sup>81</sup>

INTRODUCED BY:

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND G.S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO A PARTY  
3 ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S. 50-13.6 is rewritten to read as follows:  
6 "§50-13.6. Counsel fees in actions for custody and support of minor  
7 children. -- In an action or proceeding for the custody or support, or both,  
8 of a minor child, including a motion in the cause for the modification or  
9 revocation of an existing order for custody or support, or both, the court  
10 shall, after opportunity for hearing, require the party whose conduct neces-  
11 sitated the proceeding to pay reasonable attorney's fees to the interested  
12 party acting in good faith, unless the court finds that the opposition to  
13 the action or proceeding was substantially justified or that other circumstances  
14 make an award of expenses unjust."  
15 Sec. 2. This act shall become effective October 1, 1982.

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A P P E N D I C E S



STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
STATE LEGISLATIVE BUILDING  
RALEIGH 27611



MEMBERSHIP

1981-1983

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STATE OF NORTH CAROLINA  
 LEGISLATIVE RESEARCH COMMISSION  
 STATE LEGISLATIVE BUILDING  
 RALEIGH 27611



COMMITTEE ON  
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\* (Appointed to replace deceased Representative Robert A. Jones)



APPENDIX G

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1981  
RATIFIED BILL

RESOLUTION 61

HOUSE JOINT RESOLUTION 1292

A JOINT RESOLUTION AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1981 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(1) Continuation of study of revenue laws (H.J.R. 15 -- Lilley).

(2) Continuation of study on problems of aging (H.J.R. 48 -- Messer/S.J.R. 37 -- Gray).

(3) Day care (H.J.R. 223 -- Brennan).

(4) Civil rights compliance of non-State institutions receiving State funds (H.J.R. 344 -- Spaulding).

(5) Social services and public assistance (H.B. 393 -- P. Hunt).

(6) The need for new health occupational licensing boards (H.B. 477 -- Lancaster/S.B. 285 -- Jenkins).

(7) Matters related to public education, including:

a. The feasibility of making the 12th grade optional in the public schools (H.J.R. 890 -- Tally).

b. Continue study of public school food service (H.J.R. 948 -- Brennan).

c. The teacher tenure law (S.J.R. 621 -- Royall).

d. Providing teachers with duty-free periods (S.J.R. 697 -- Speed).

e. Continuation of study regarding purchase of buses in lieu of contract transportation, and other school bus transportation matters (no 1981 resolution).

(8) Campaign financing and reporting (H.J.R. 975 -- D. Clark).

(9) State's interests in railroad companies and railroad operations (H.B. 1069 -- J. Hunt).

(10) Matters related to insurance, including:

a. Insurance regulation (H.B. 1071 as amended -- Seymour), including the feasibility of establishing within the Department of Insurance a risk and rate equity board.

b. How the State should cover risks of liability for personal injury and property damage (H.J.R. 1198 -- Seymour).

c. Credit insurance (H.J.R. 1328 -- Barnes).

(11) Matters related to public property, including:

a. Development of a policy on State office building construction (H.J.R. 1090 -- Nye).

b. The potential uses and benefits of arbitration to resolve disputes under State construction and procurement contracts (H.J.R. 1292 -- Adams).

c. The bonding requirements on small contractors bidding on governmental projects (H.J.R. 1301 -- Nye).

d. Continue study of the design, construction and inspection of public facilities (S.J.R. 143 -- Clarke).

e. Whether the leasing of State land should be by competitive bidding (S.J.R. 178 -- Swain).

(12) Allocation formula for State funding of public library systems (H.J.R. 1166 -- Burnley).

(13) Economic, social and legal problems and needs of women (H.R. 1238 -- Adams).

(14) Beverage container regulation (H.J.R. 1298 -- Diamont).

(15) Scientific and technical training equipment needs in institutions of higher education (H.J.R. 1314 -- Fulcher).

(16) Role of the State with respect to migrant farmworkers (H.J.R. 1315 -- Fulcher).

(17) Existing State and local programs for the inspection of milk and milk products (H.J.R. 1353 -- James).

(18) Laws authorizing towing, removing or storage of motor vehicles (H.J.R. 1360 -- Lancaster).

(19) Annexation laws (S.J.R. 4 -- Lawing).

(20) Laws concerning obscenity (House Committee Substitute for S.B. 295).

(21) The feasibility of consolidating the State computer systems (S.J.R. 349 -- Alford/H.J.R. 524 -- Plyler).

(22) Laws pertaining to the taxation of alcoholic beverages and the designation of revenues for alcoholism

education, rehabilitation and research (S.J.R. 497 -- Gray).

(23) Regional offices operated by State agencies (S.J.R. 519 -- Noble).

(24) Continue study of laws of evidence (S.J.R. 698 -- Barnes).

(25) Continue study of ownership of land in North Carolina by aliens and alien corporations (S.J.R. 714 -- White).

(26) Rules and regulations pertaining to the Coastal Area Management Act (S.J.R. 724 -- Daniels).

(27) Transfer of Forestry and Soil and Water from Department of Natural Resources and Community Development to Department of Agriculture (H.B. 1237 -- Taylor).

(28) Continue sports arena study (H.J.R. 1334 -- Barbee).

(29) State investment and maximum earning productivity of all public funds (H.J.R. 1375 -- Beard).

Sec. 2. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1982 Session of the General Assembly or to the 1983 General Assembly, or the Commission may make an interim report to the 1982 Session and a final report to the 1983 General Assembly.

Sec. 3. The Legislative Research Commission or any study committee thereof, in the discharge of its study of insurance regulation under Section 1(10)a. of this act, may secure information and data under the provisions of G.S. 120-19. The powers contained in the provisions of G.S. 120-19.1 through

G.S. 120-19.4 shall apply to the proceedings of the Commission or any study committee thereof in the discharge of said study. The Commission or any study committee thereof, while in the discharge of said study, is authorized to hold executive sessions in accordance with G.S. 143-318.11(b) as though it were a committee of the General Assembly.

Sec. 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 10th day of July, 1981.

JAMES C. GREEN

James C. Green

President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey

Speaker of the House of Representatives



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1981

HOUSE RESOLUTION 1238

Sponsors: Representatives Adams; Easterling, Thomas and Brennan.

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Referred to: Rules.  
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June 12, 1981

1 A HOUSE RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH  
2 COMMISSION TO STUDY THE ECONOMIC, SOCIAL AND LEGAL PROBLEMS AND  
3 NEEDS OF THE WOMEN OF THE STATE OF NORTH CAROLINA.

4 Whereas, there is indication that the common law of  
5 North Carolina, especially with regard to inheritance and  
6 property, often adversely affects women; and

7 Whereas, the Legislative Research Commission on Sex  
8 Discrimination stated in its 1977 report that, "it was necessary  
9 to postpone consideration of common law, case law and  
10 administrative regulations"; and

11 Whereas, no study has since been made to determine the  
12 extent of the sex discriminatory effect of common law, case law  
13 and administrative regulations; and

14 Whereas, no study has been made to determine the extent  
15 to which the recommendations of the Legislative Study Commission  
16 on Sex Discrimination have been adopted, either in whole or in  
17 part; and

18 Whereas, women contribute significantly to the life and  
19 well-being of the State of North Carolina and to the character  
20 and well-being of its children and family life;

Now, therefore, be it resolved by the House of Representatives:

Section 1.a. The Legislative Research Commission may study the economic, social and legal problems and needs of the women of the State of North Carolina.

b. The membership of the committee shall consist of 12 members appointed as follows:

- Four Senators appointed by the President Pro Tempore of the Senate;

- Four Representatives appointed by the Speaker of the House;

- The Director of the Council on the Status of Women;

- Three persons who fall in one or more of the following groups: working female heads of household, displaced homemakers, minimum social security recipients or low income women, husband present, who are working or looking for work, one to be appointed by the President Pro Tempore of the Senate; one to be appointed by the Speaker of the House and; one to be appointed by the Governor.

Sec. 2. The commission may specifically study:

a. the potential impact of federal budget cuts on women and also on their dependent children, especially low income working women, female heads of households, AFDC mothers, female social security recipients who presently receive minimum benefits;

b. the residual sex discrimination contained in common law case law and administrative proceedings of the State of North Carolina;

c. the extent to which the recommendations of the 1977 Legislative Research Commission Report on Sex Discrimination have been implemented;

d. any other matters appropriate to the mandate contained in Section 1.a. above.

Sec. 3. The Commission may report its findings and recommendations to the General Assembly, Second Session, 1982.

Sec. 4. This resolution is effective upon adoption.



Presentation to the Legislative Research Committee  
To Study The Economic, Social and Legal  
Problems of Women

By  
Miriam J. Dorsey  
November 13, 1981

Thank you for asking me to address this committee today. I must admit that I regret the need for a committee to study the "economic, social and legal problems of women." It is a clear indication that despite our changing world, women are not equal under the law and are not afforded the same economic opportunities as men. I am glad that the General Assembly and the Legislative Research Committee in its wisdom, is making an effort to address the problems that North Carolina women face today. Seeing the women and supportive men in this room is reassuring that serious attention will be given to the task at hand.

More than half of this states population is women or 51.6% and 56% of the registered voters in N. C. are women. I mention the voting population because it was thought that when the 19th amendment, granting women the right to vote, was passed that all of women's problems would be solved. The women who fought for and eventually won suffrage in 1920 felt that through voting women could and would exercise their power and numbers at the polls and would enable women to gain full equality with men. But that did not happen then and has not happened to date.

I have been asked to speak on the current status of women in our state and to provide you with an overview of some of the problems and needs that women face and which might be addressed by this committee. My position as Executive Director of the N. C. Council on the Status of Women has given me the opportunity to meet and talk with literally thousands of women across the state and our country, both formally and informally. Our Leadership Development Conferences alone - in which most of you have participated - have taken us into 90 out of 100 counties and through them we have reached around 20,000 women. We also have held Speakouts in 10 locations in our state. The Council works with women's organizations, domestic violence

and rape crisis programs across the state and in about half our counties, with local councils appointed by county and city officials to address the problems of women. Our six field coordinators also work with women in every area of the state. Based on the voices of these women who represent the majority of N. C. women, and our 20 member Council, I would like to briefly address their major concerns.

#### Employment and Education

Women across the state have consistently cited the economic status of women as the primary problem facing women today. Because of the economy of our country, few women have the option of being full-time homemakers as it takes 2 incomes to make ends meet. Therefore, more women are working outside the home than ever before. North Carolina has one of the highest female labor participation rates in the nation. In 1978, 55% of all N. C. women age 16 and older were working outside the home compared to a national figure of just over 40%. We expect the 1980 census figures to reveal even a higher percentage. Despite the female work force participation, women continue to earn slightly over half as much as men or in N. C. 61¢ compared to \$1.00, and 80% of all working women hold the lowest paying jobs which have little or no upward mobility. Only 3% of women are now working in managerial positions and 2% in skilled craft jobs - compared with 11% and 23% for men. These are not new figures to anyone in this room; we've all heard them time and time again. Consider a new dimension to these statistics: 58% of all female heads of households are living below the poverty level. Of that 58%, 40% are either employed or unemployed and looking for work. I don't need to remind this group that when working women suffer and many do from low wages, the family suffers. Women work out of economic need; our laws and policies must begin to recognize this by addressing these inequalities. Women need more adequate training opportunities to allow them to hold more lucrative jobs in the skilled trades.

The North Carolina Council on the Status of Women ran a very successful program for 3 years and trained over 200 women in such skilled trades as carpentry, welding, bricklaying and heavy equipment operation. Based on this experience we know that women can do these jobs. I hope that this committee will consider ways to provide more and better job opportunities for women in the skilled trades and insure that new industries coming into our state, recruit, hire and train women in all phases of production. Community colleges need to be leaders in this area as well. We cannot discuss employment opportunities without addressing the needs of the displaced homemaker. The Council on the Status of Women has worked with over 200 such women in our state, helping them to become self-sufficient by developing an individual plan of action. Because these programs have been funded largely by CETA, few middle-class women have been able to take advantage of these classes. Also CETA is no longer mandated to target displaced homemakers as a category and many of the fledgling programs begun to assist displaced homemakers are in great jeopardy, as is in fact, the entire CETA program. I urge this committee to look into ways to increase opportunities for women who have spent years raising their families only to find themselves left without any financial resources and lacking a marketable skill. We must develop new ways of looking at the value of homemaking experience and volunteer experience. We must also find better options for the children of working mothers so that they can be adequately cared for during the working hours. The General Assembly recently enacted a tax-credit for parents, but businesses need to have an incentive too for providing options for child care. You might also take a look again at several recommendations introduced in the last session of the General Assembly regarding quality of child care. Many women across the state have expressed great concern over the quality, cost and availability of child care. They are also interested in flex time and part-time opportunities which allow them more leeway in managing their family lives.

### Feminization of Poverty

Recent statistics have brought to the public's attention the startling fact that most of the nation's poor are women. According to a 1980 report prepared by the National Advisory Council on Economic Opportunity, 1 in 3 female headed households is poor compared to 1 in 18 male headed households. And if this trend continues, by the year 2000, 100% of the nation's poor will be women and families headed by women. A significant group of women that contributes heavily to the population of poor women is older women. While families headed by women constitute 58% of all poor families in N. C., 33% are over age 60. Older women are poor for a number of reasons. For example, traditionally, our society has placed no economic value on the role of a homemaker. As a result, women who have chosen the profession of homemaking or have interrupted their careers to raise a family, find themselves in later life dependent on whatever - if any - finances their husbands leave for them. Due to recent cut-backs in AFDC, food stamps and other benefits many women and their families are increasingly struggling for a decent existence. Pensions and insurance are other areas that deserve some attention from this committee. Senator Gray can probably provide this committee with a good overview of the problems of older women.

### Domestic Violence

Family abuse is a recognized problem in our country and state. In the Crime Control Agenda for N. C., which was the result of 37 public hearings on crime held across N. C. in 1978, family violence was called, "the most important, most serious, and most upsetting issue addressed in this report." The Domestic Violence Act of 1979, in fact, which Senator Marvin shepherded through the legislature, was a direct result of this message of concern expressed at these hearings. The Council also held 10 Speakouts this year across the state at which family abuse was cited as a major concern.

Statistics indicate that domestic violence is increasing. Two years ago statistics indicated that more than 1/4 of murders were committed by family mem-

bers. This past year PIN reported that almost 1/3 were done by family members. Across the state, mental health professionals, counselors and women's advocates report that domestic violence cases are at an all time high.

The Governor's Task Force on Domestic Violence, although still relatively new, is working to coordinate efforts and hence improve services to victims. Other goals of the task force include education within the community, technical assistance and monitoring the 1979 law. Of immediate and critical concern to the task force, to the Council on the Status of Women and to the Domestic Violence programs in communities across the state, is funding.

Last year the North Carolina Council on the Status of Women received \$90,000 for supporting shelters and programs from Title IV-B, Child Welfare monies. This year the General Assembly defeated two bills which would have provided funds to support programs and shelters in North Carolina. Due to budget cuts the Council on the Status of Women has lost 100% of its funding through LEAA and Title IV-B. This means that each local program must struggle to seek community funding, which is minimal in many cases. With no financial assistance from the state of N. C., most programs face severe cuts in services that they have provided; some shelters fear they will have to close, and communities which are trying to start new programs will be curtailed in their efforts. In essence, a substantial number of abused women and children will have no alternative to the abusive environment in which they live.

Currently there are 9 shelters for victims of family abuse and some 25 other programs of emergency assistance. However, funding for these programs is disappearing rapidly and even though law enforcement officers now clearly have the authority to assist with domestic violence problems, they tell us they do not have the necessary resources to assist in this situation. For instance, Reach Shelter House assists victims of sexual abuse and domestic violence in Haywood and Jackson

Counties and received some funds from the Council on the Status of Women. This program, the only one of its kind in that area of the state, will have to close its doors at the end of the month if it does not receive additional funding. This committee should speak to the issue of family violence and continue the work started by the passage of the Domestic Violence Act. A number of states have increased the marriage license fee as a way of providing funds for domestic violence. The states of Illinois and Alabama did this just recently. There may be other ways of financing some of these programs.

#### Sexual Assault

In N. C. there has been a disturbing increase in the incidence of rape and other sex offenses. In 1979, 1,122 rapes were reported, a 22% increase over 1977. And in many cases even when the crime is reported, there are few arrests or convictions. For example, in 1977 in Charlotte only 10% of the rapes reported resulted in convictions and active sentences for the offender. The average sentence was only 6 years.

In addition to the problems of sexual assault, services to rape victims, where existing, have received minimal state financial support. Until this year, no money has been allocated to the mostly volunteer rape crisis programs operating across the state. The Council will be receiving a block grant of \$66,772 which will be distributed to local rape crisis programs. However, this money will not come close to providing the funding which is needed to maintain comprehensive services to victims of sexual assault.

Rape is a violent crime and hence traumatic in every way to the victim and her family. Whereas some choose not to, many newspapers now print the names of rape victims, and even such identifying information as age and address. This only serves to add undue stress to the victim and does in no way contribute to good journalism.

In 1977 the General Assembly passed the rape-shield law and established the position of coordinator of services to victims of sexual assault. Under the leadership of Rep. Brennan and Easterling the 1979 General Assembly modernized the sexual assault laws to make them sex neutral, to protect victims of sex offenses and to clarify the evidence required for prosecution. I encourage this committee to study ways to provide more state support to local rape programs and to recommend legislation which would prevent newspapers from printing any information that would reveal the identity of rape victims.

### Health

Women's health care is a growing concern to people in our state. Among women's health concerns are issues such as problems of aging, abortion, terminal illness, substance abuse, coping with stress and teenage pregnancy, pre and post-natal care. Violent crimes against women continue to soar while convicting those who commit them does not. Teenage pregnancy is a monumental concern nationally and in N. C. 1978 statistics reveal that there were 1,142,000 pregnancies to women younger than twenty(20). Only 1 in 6 births were conceived following marriage. If trends continue we can expect 4 in 10 young girls will get pregnant as teens. I hope that Secretary Morrow will have an opportunity to address this committee at some future date regarding what her department is trying to do to help alleviate this problem.

It is my feeling that this committee cannot ignore the issue of reproductive freedom and family planning. These are not only health issues, but legal and political issues and will impact either directly or indirectly on every woman in America. To pass a Human Life Amendment will forever deny a women the right to control her own body. There is a chance that this General Assembly will be faced with this issue in the near future.

Legal

Through the leadership of Representative Jones and others, many recommendations of the legislative research committee on sex discrimination were enacted. Two constitutional amendments proposed by that committee were passed. Many non-controversial but discriminatory statutes were changed and the work of this committee was an important foundation from which to build. One of the recommendations made by this study commission and also by one chaired by Rep. Lura Tally, was the enactment of a Fair Employment Practices Act. The need for an enforcement agency of this kind could become increasingly important in the future, particularly in light of a decreasing disregard for affirmative action programs at the federal level. The significance of the new law on equitable distribution of property cannot be overestimated as it firmly sets out the principle of marriage as an economic partnership. There are other areas in which I hope this committee will pay close attention. For example, a bill to amend the tenancy by the entirety statute to allow both husband and wife to manage, use and control property owned jointly has been introduced time after time only to be stalled in committee. This time this bill made it through the House of Representatives. The committee should consider this legislation along with the whole concept of property ownership between husband and wife, inheritance, the legal rights of homemakers and residency of spouses. Concerns in these areas come up everywhere I travel in N. C. as women are becoming increasingly aware of legal inequities based primarily on common law principles which made much more sense in the days before women owned property, could vote and hold down jobs outside the home.

I know that this committee will want to consider all of these areas and recommend appropriate action to the General Assembly. It is impossible to discuss the legal status of women without reminding you that both the Governor and the N. C. Council on the Status of Women have recognized the need for ratification of

of the Equal Rights Amendment by our General Assembly. Whereas I recognize and I am sure you do that the Equal Rights Amendment is both an emotional and a volatile issue, consideration of this issue cannot be overlooked in any discussion of legal equality for women.

My office has received numerous calls from women across our state who felt that they were financially and legally secure only to learn a bitter lesson - that their security was directly dependent on an intact marriage and that the family resources they had worked so hard to provide, actually belonged to their husbands and not to them.

I am glad that this committee will be looking into all of these needs of women in N. C. today. The role of women has changed, primarily due to our changing economy, and I am encouraged that this group is willing to grapple with these complicated issues.

The members and staff of the N. C. Council on the Status of Women stand ready to assist you in every way we can in this important endeavor. We have a great deal of information and resources to share with you, and I personally look forward to working with you.



STATE AND FEDERAL ASSISTANCE  
KAY FIELDS, CHIEF, ASSISTANCE PAYMENTS SECTION  
DEPARTMENT OF HUMAN RESOURCES

(Presented to the November 13, 1981 Committee Meeting)

I am really pleased to be here too. I would have liked to have had the opportunity to share a lot of this information with some of you earlier because I imagine that you are hearing from a lot of people in the community about all of the changes that we are experiencing in the AFDC program. The County Department of Social Services are in the process of reviewing all of the cases in the state to implement the changes that were enacted by Congress and were effective on October 1, 1981. We expect to have all the revisions completed on December 1, 1981. At that time we are going to see a significant impact on the economic condition of the AFDC families. We have estimated that approximately 10,800 cases will be terminated. That means 10,800 families will no longer receive AFDC after the November checks. These are all estimated figures. We do expect to have a complete, accurate report by November 20. Once the counties complete these revisions, we will be happy to share this data with the committee. We expect approximately 2,500 families will receive reduced benefits in addition to those families whose AFDC will be stopped altogether. I think the changes will most significantly affect the AFDC mothers who are employed and working and have some resources, but they are not sufficient to meet the families needs.

I would like to share with you some of the major regulatory changes that I think are going to have the most impact on AFDC families. First of all is what we are calling the 150% rule. We are very pleased that the General Assembly in the October session did raise the need standard by 100%. This will help a lot of the families who would have been terminated in the first go around unless we had had an increase of the standard of need. While the standard of need was increased in determining initial eligibility to this program, the payment standard was not increased. So that means that although some additional families will remain eligible, there will be no increase in their overall income or payment to the family. Included in the 150% rule in terms of how we will be testing initial eligibility, I think it is very significant for you to know that we will be considering the income of children. For example, we have children in AFDC families who have been doing a paper route, driving school buses, picking up odd jobs in the community and under the new rule we are now required to count children's income

in this initial test of eligibility. This is a major difference and it is a way a lot of these children have sufficient income that we can't provide for an AFDC to help them to stay in school and to meet their school expenses.

Another significant change is redefining the age of the dependant child. In North Carolina, we have chosen to provide AFDC to children through age 20 as long as they were in school. This way we were able to provide assistance to children not only in secondary school but technical schools and colleges and universities. The state no longer has that option as of October 1, 1981. We are required to terminate all children at the age of 18. The state has one option, we can elect to provide assistance to children age 18 as long as they are in secondary school and expect to graduate from secondary school before reaching age 19. So, in other words if you have a child in an AFDC family who is 18 and is a junior in high school, we immediately have to terminate that child's assistance. We are asking the Social Services Commission, however, to look at that option at their November 24 meeting, and we hope that we will be able to provide assistance at least to those 18-year olds who are seniors in high school. We do see that education is a way to break the welfare cycle and the poverty cycle. So this is going to be a significant change. We have received a number of calls already from mothers, because in a lot of cases these have been the only children in the family. If the AFDC is not only terminating the child but if it is the only child the mother is being terminated from assistance too. In our preliminary report, this one change has far exceeded the others in terms of reduction or savings, so to speak, in the program.

Another change is the way we are now required to look at the stepparent's income. Under state law, a stepparent is not considered financially responsible for stepchildren. With the change in the federal legislation, they are very careful in the wording in that stepparents are not legally liable for stepchildren; however, we are required to deem stepparent's income to the AFDC children. Here again, this has been one of the most significant changes thus far and the one that we see in the preliminary cases coming in that are also causing a number of deductions and terminations of assistance. In other words, if a stepparent is in the home we are required to look at his gross income. He is allowed certain deductions for his own needs and the needs of other dependants that he is supporting. But those needs are based on AFDC needs, not actual needs. If he is paying child support or court ordered alimony, we are able to deduct those if those dependants are outside of the home. If the dependants are in the home, we can only deduct

the AFDC standard of need. The income that is left over from the gross income is deemed automatically to the AFDC children and counted as income in determining their AFDC payment.

In terms of changes for working mothers, there are a number of changes in the way that we will be looking at her income now. In the past in terms of work related expenses or transportation, deduction for social security, federal and state taxes, the kind of things that we associate with working, we could either use a set amount or an actual amount. In other words, we could deduct an actual cost of their expenses. Under the new regulation, there is a cap of \$75 if the mother is working full-time, we are required to reduce that to a lesser amount if she is working less than full-time. We have chosen to go with \$75 for full-time employment and \$38 for part-time employment. There is now a cap in the law on the deduction for day care expenses with a \$150 per month per child. In the past there was no cap on day care expenses, if the mother paid it herself. There is one positive benefit that has been added in the work deduction, we now can permit a deduction up to \$160 per month for incapacitated adult care. So if a working mother has an elderly parent in the home that she needs someone to look after while she is at work, we can allow that as a deduction. So I think that is a good move there.

Probably, many of you have heard about the the 30 1/3 which we call a work incentive in the AFDC program. In the past, a mother was allowed this incentive as long as she was employed. Under the new regulations, she is only allowed to receive this incentive for work for four consecutive months. She is not entitled to receive that work incentive again until she has been off the AFDC for 12 consecutive months. So you can see that many of the new changes at the federal level are geared to making the regulations much more restrictive to those people who do have income and resources and to strictly provide assistance to those families that have no resources or no way to make resources available.

There are some additional changes in the reserve requirement. I don't think they will have the impact nearly so significant as the ones that we have discussed in regard to income because in North Carolina very few AFDC families have any reserve or assets for emergencies. However, there is a cap on that now of \$1,000 per family. The federal law only allows us to exclude the home site, one automobile with an equity of \$1,500 or less and personal goods and household effects of limited value. Everything else we are required to consider in determining the family's assets. In the past we were able to exclude the savings of a child, if he had saved up money for school expenses or future educational needs, we were allowed to exclude that. We no longer can do that. That child's savings will have to be counted as part of the family's assets in the \$1,000 limitation. So

before we were pretty much able to protect so to speak the income of the children in AFDC families, except when they were receiving certain types of other income such as social security. But if they did get out and get odd jobs and do these kinds of things to help with the expenses we could disregard that totally. But under the new regulations, we will be looking more and more at children's income in actually affecting that family's eligibility for AFDC.

As I said, it is still really early for us to tell the full impact of all of these changes. We will be able to have more information by the end of the month and hopefully tell how many families are going to be reduced and terminated. The full impact it is going to have on the spillover into other programs. There will very possibly be families that are going to be without resources that will be going into the county departments of social services, needing more of the general assistance type of assistance and will be going more to other agencies and community resources asking for assistance. So I do think it is going to have a spillover effect into many of the other community resources and programs.

PRESENTATION BY MARGARET RIDDLE  
TO WOMEN'S NEEDS COMMITTEE  
November 13, 1981

WHEN THE DELEGATES AND OBSERVERS FOR THE WHITE HOUSE CONFERENCE ON AGING MET A FEW WEEKS AGO FOR A BRIEFING, WE HAD A CHOICE OF SECTIONS IN WHICH WE COULD PARTICIPATE. ONE OF THOSE SECTIONS WAS ON THE ECONOMIC NEEDS OF OLDER WOMEN. DR. ELLEN WINSTON, WHOM MOST OF YOU KNOW, SAT WITH THE PARTICIPANTS IN THIS SECTION AND GAVE SOME OF THE BEST ADVICE I'VE HEARD YET. "THE BEST THING YOU CAN DO FOR OLDER WOMEN," SHE SAID, "IS TO INCREASE THE LIFE SPAN OF OLDER MEN."

THOSE WORDS ARE TRUE. OF THE 330,000 HOUSEHOLDS IN NORTH CAROLINA BELOW THE POVERTY LEVEL, 58 PERCENT ARE HEADED BY A FEMALE. THIRTY-THREE PERCENT OF THOSE ARE OVER 60 YEARS OF AGE, 32 PERCENT ARE WHITE AND 26 PERCENT ARE NONWHITE. POVERTY, ESPECIALLY FEMALE POVERTY, IS A VERY REAL ISSUE BEFORE US TODAY.

THE SOCIAL SECURITY SYSTEM WAS DESIGNED TO REPLACE PART OF THE WAGES LOST WHEN A WORKER RETIRES, BECOMES DISABLED, OR DIES. SINCE SOCIAL SECURITY WAS ENACTED, MAJOR CHANGES IN THE ECONOMIC ROLE OF WOMEN AND IN THE INSTITUTION OF MARRIAGE HAVE OCCURRED.

IN THE 1930'S, WOMEN ORDINARILY WERE REGARDED AS ECONOMICALLY DEPENDENT UPON THEIR HUSBANDS, AND THIS ASSUMPTION BECAME A BASIC PREMISE OF THE SOCIAL SECURITY SYSTEM. TODAY, THE PROPORTION OF MARRIED WOMEN WHO CAN AND DO WORK FOR PAY HAS GROWN. AS THE

ECONOMIC VALUE OF HOME MAKING HAS BEEN INCREASINGLY RECOGNIZED, THE BELIEF THAT WIVES SHOULD BE CONSIDERED ECONOMIC PARTNERS WITH THEIR HUSBANDS HAS SPREAD.

THE INCREASE IN THE NUMBER OF MARRIED WOMEN WHO WORK FOR PAY IS PARTICULARLY SHARP. THE PROPORTION OF MARRIED WOMEN LIVING WITH THEIR HUSBANDS WHO PARTICIPATE IN THE LABOR FORCE HAS MORE THAN DOUBLED, FROM 20.8 PERCENT IN 1950 TO 47.6 PERCENT IN 1978. BY 1979, THE MEDIAN INCOME FOR A WOMAN WORKING FULLTIME AND YEAR-AROUND WAS \$10,167 -- 59.6 PERCENT OF THE MEDIAN INCOME FOR MEN AT \$17,061.

SOCIAL SECURITY BENEFITS ARE NOW PAID TO NEARLY 95 PERCENT OF THE AGED. HOWEVER, WOMEN ARE THREE TIMES AS LIKELY TO RECEIVE THE MINIMUM PRIMARY SOCIAL SECURITY BENEFITS DUE TO WORK HISTORY AND LOW LEVEL OF PAY OF MOST WOMEN'S JOBS. THESE BENEFITS HAVE BEEN CUT, ALTHOUGH CONGRESS IS RECONSIDERING. TWO MILLION PEOPLE RECEIVE THE MINIMUM SOCIAL SECURITY PAYMENT: 16,000 ARE OVER 95 YEARS OLD, 500,000 ARE OVER 80, TWO-THIRDS ARE OVER 70 AND A FULL 85 PERCENT ARE WOMEN.

FOR 36 PERCENT OF ALL AGED NONMARRIED WOMEN IN 1976, SOCIAL SECURITY BENEFITS ACCOUNTED FOR 90 PERCENT OR MORE OF THEIR INCOME; FOR 74 PERCENT, SOCIAL SECURITY REPRESENTED MORE THAN HALF OF ALL INCOME. AND ABOUT TWO-THIRDS OF ALL AGED WIDOWS AND WIDOWERS IN 1976 WERE LIVING IN POVERTY EVEN AFTER INCLUDING SOCIAL SECURITY BENEFITS, COMPARED TO 9 PERCENT OF AGED MARRIED COUPLES.

THE PAST TREND OF AGING WOMEN REMAINING WITHIN THE FAMILY SETTING HAS CHANGED TOWARD INDEPENDENCE AND SEPARATION -- AN OPTION MADE POSSIBLE IN LARGE PART BY SOCIAL SECURITY. EVEN THOUGH THE PRICE OF SUCH INDEPENDENCE IS POVERTY, THE TREND CONTINUES, REINFORCED BY THE GROWING NUMBER OF WOMEN MOVING INTO THE LABOR FORCE. NO LONGER IS THERE A DAUGHTER AT HOME TO CARE FOR AN ELDERLY MOTHER.

UNFORTUNATELY, THE LONGER A WOMAN LIVES THE POORER SHE BECOMES.  
WHY?

1. WOMEN LIVE LONGER AND BENEFITS ARE SPREAD OVER A LONGER PERIOD OF TIME. WITH INFLATION AND RISING COSTS, THE OLDER A PERSON IS, THE POORER SHE IS.
2. EARNINGS DROP SHARPLY FOR ALL GROUPS AFTER 65, BUT WOMEN IN PARTICULAR.
3. LOW OR NON-EXISTENT PENSIONS: 42 PERCENT OF COUPLES HAVE PENSION INCOMES BASED ON HUSBAND'S WORK HISTORY; ONLY 22 PERCENT OF UNMARRIED WOMEN HAVE THIS INCOME SOURCE. FEW PRIVATE PENSION PLANS ARE AVAILABLE IN THE TYPES OF JOBS WHICH ARE TRADITIONALLY HELD BY WOMEN. FEWER THAN ONE OUT OF EVERY SIX (6) WOMEN OVER 65 REPORTED TO THE CENSUS BUREAU THAT THEY RECEIVE A PENSION.

4. MOST UNMARRIED WOMEN HAVE NO SOURCE OF RETIREMENT INCOME OTHER THAN SOCIAL SECURITY.
5. WOMEN WHO HAVE CHOSEN TO BE HOMEMAKERS AND RELY ON THEIR HUSBANDS' INCOME, ARE LIKELY TO RECEIVE HIGHER SOCIAL SECURITY PAYMENTS AND SHARE IN SECOND PENSIONS AND SUPPLEMENTAL EARNINGS, BUT AT THE DEATH OF THE HUSBAND, THE PENSIONS DISAPPEAR AND SUCH WOMEN ARE NO BETTER OFF THAN WOMEN WHO HAVE SUPPORTED THEMSELVES THROUGHOUT THEIR LIVES.

OUR SOCIAL SECURITY SYSTEM ACTUALLY CONTRIBUTES TO THE POVERTY OF OLDER WOMEN:

- THE BENEFITS FORMULA IS BASED UPON EARNINGS. SINCE WOMEN TYPICALLY EARN LOW WAGES, THEY RECEIVE LOW BENEFITS AS RETIREES OR DISABLED WORKERS.
- WOMEN ARE PUNISHED BY THE SOCIAL SECURITY SYSTEM FOR MOTHERHOOD. THE BENEFIT FORMULA AVERAGES OUT EARNINGS ELIMINATING ONLY THE LOWEST FIVE (5) YEARS. SO EVERY ADDITIONAL YEAR OUT FOR CHILD RAISING REDUCES AVERAGE EARNINGS.

- ACTUARIAL REDUCTION: IF YOU ELECT TO TAKE BENEFITS AT 62, THE MONTHLY PAYMENT WILL BE REDUCED BY ACTUARIAL TABLES TO THE EQUIVALENT OF WHAT YOU WOULD RECEIVE IN A LIFETIME IF YOU WAITED UNTIL 65 TO RETIRE. SEVENTY PERCENT OF WOMEN IN 1970 RETIRED AT 62. WITH ACTUARIAL REDUCTION FOR LONGER LIFE THAN MALES AND ALSO EARLY RETIREMENT, THE CHECKS FOR WOMEN ARE CONSIDERABLY SMALLER.
  
- WIDOW'S GAP: WHEN THE YOUNGEST CHILD REACHES 18, THE WIDOW'S BENEFITS CEASE UNTIL SHE REACHES 60 OR IS TOTALLY DISABLED. YET, THE HOMEMAKER WIDOW OF 50 FACES SEVERE JOB HANDICAPS.
  
- THE DEPENDENCY STATUS OF THE HOMEMAKER UNDER SOCIAL SECURITY MAKES MANY OLDER WOMEN VULNERABLE, ESPECIALLY IN CASE OF DIVORCE. A DIVORCED WIFE--AFTER A MARRIAGE OF 10 YEARS--IS ELIGIBLE FOR BENEFITS. BUT THE BENEFITS FOLLOW THE BREADWINNER. IF THE EX-HUSBAND IS YOUNGER OR ELECTS TO CONTINUE WORKING, THE EX-WIFE IS ELIGIBLE FOR NO BENEFITS--EVEN THOUGH HER HOMEMAKER LABOR MADE POSSIBLE HER HUSBAND'S LABOR AT WORK.

ALSO, A HOMEMAKER HAS NO COVERAGE FOR  
DISABILITY.

- ADDITIONAL SOCIAL SECURITY TAXES PAID SHOULD  
RESULT IN INCREASED SOCIAL SECURITY PROTECTION  
EQUAL TO AT LEAST THE VALUE OF THE WORKER'S  
OWN EXTRA CONTRIBUTION. BECAUSE OF THE  
EXISTENCE OF DEPENDENTS' BENEFITS, THIS IS NOT  
ALWAYS TRUE.
  
- DEPENDENT SPOUSES' BENEFITS FOR WOMEN WHO EARN  
ONE-SIXTH OR LESS OF THE COUPLE'S TOTAL EARNINGS  
WILL ALWAYS BE GREATER THAN THEIR BENEFITS AS  
WORKERS. ONLY IF THE WIFE EARNS A LEAST ONE-  
THIRD OF THE COUPLE'S TOTAL INCOME IS SHE  
GUARANTEED A LARGER RETIREMENT BENEFIT ON THE  
BASIS OF HER OWN EARNINGS THAN AS A DEPENDENT  
SPOUSE. THUS, UP TO THE POINT WHERE HER INCOME  
REPRESENTS A SUBSTANTIAL PORTION OF THE COUPLE'S  
TOTAL INCOME, SHE MAY RECEIVE A BENEFIT IN RETIRE-  
MENT THAT IS NO HIGHER THAN IF SHE HAD NEVER PAID  
A PENNY IN SOCIAL SECURITY TAXES!

GIVEN THE HIGH DIVORCE RATE AND THE INEQUITY IN BENEFITS, A WOMAN'S ONLY SECURITY MAY LIE IN QUITTING FULLTIME HOUSE-WORK AND FINDING A HIGHER PAID OCCUPATION. BUT THAT, TOO, IS EXTREMELY DIFFICULT FOR THE MAJORITY OF WOMEN--ESPECIALLY THOSE WHO TEACH OUR CHILDREN, WHO NURSE OUR SICK AND WHO RUN OUR OFFICES.

WHAT IS HAPPENING? WOMEN ARE ALL GETTING OLDER AND ARE ALL GETTING POORER. WE ARE LOOSING OUR FREEDOM OF CHOICE ABOUT HOW WE WANT TO LIVE OUT OUR LIVES. AND BASIC POLICY DECISIONS ABOUT SOCIAL SECURITY, THE THREAT OF A SYSTEM "GOING BROKE", AND THE CULTURAL BIASES WE FACE ARE CONTRIBUTING TO THIS LOSS OF FREEDOM. WE ARE BECOMING ECONOMIC EUNUCHS!

THANK YOU.



LEGAL PROBLEMS OF WOMEN IN NORTH CAROLINA

Presentation to the Legislative Study Commission  
on the Needs and Problems of Women in North  
Carolina, November 13, 1981

By: Carol Spruill, Staff Attorney  
EAST CENTRAL COMMUNITY LEGAL SERVICES  
and representative of the  
Association of Women Attorneys

With such short notice, I do not pretend to present you with a comprehensive list of the legal needs of women. I have only some ideas and observations I have made as an adviser to hundreds of women who have come to me with their problems over the last five years.

Since my job is to be counsel for low-income people, many of my observations are not purely legal, but economic as well. Many of my clients would not have legal problems if they had more money.

I hope this introduction serves as some sort of transition for some fairly broad-based generalizations.

CHILD SUPPORT

One of the main problems on my mind is child support. As our nation's families increasingly become two wage earner families, the income from two people's wages becomes the norm, meaning the basis by which rent is set and prices for all kinds of commodities are set. Thus, the poorer family is the one income family and, of course, with their lower wages, the family headed by a single, female parent is the poorest family. With divorce rates rising and illegitimate birth rates rising also, a whole new poverty class has surfaced of the husbandless woman trying to support children. Far too often she does this with little or no financial assistance from the father of the children. The failure of absent parents to contribute to their children's financial wellbeing is a national disgrace.

Any laws that can strengthen the determination, and even more so, the enforcement of child support orders, are greatly needed. However, it is not so much the laws as the inability to hire a lawyer to enforce the laws that is the impossible hurdle for most women to clear. If the father insists on not paying, he can gain a great deal of money by forcing the mother to go back to court and compel him to pay arrearages. At the very least, he saves the interest on the money he has not turned over. Perhaps, we need a law that automatically awards interest on arrearages.

I would like for you to be aware of a lawsuit that I am an attorney for. I certainly cannot argue it or try it before you but I can acquaint you with our allegations.

The national Social Security Act in 1974 was amended to include a Child Support Enforcement Program. The services provided by this program include: (1) going to meet and locating an absent parent, (2) winning a paternity suit and child support order, (3) monitoring the payments made under the order, (4) enforcing the order when payments were not made using necessary remedies such as the contempt power of the court, wage garnishment and attachment, and (5) modifying orders when needs change.

This program was designed not just for AFDC (Aid to Families with Dependent Children) recipients but also for others who applied for help. The rationale for including non-AFDC recipients was that those who were struggling on a low-income job could make ends meet and stay off welfare if they had child support to supplement their income.

This lawsuit alleges that this state is not supplying all these services to those who do not receive AFDC.

If this suit is won and women have access to the investigative and legal skills of the Child Support Enforcement Program, there is bound to be an increase in child support collected and a better life for female-headed households.

AFDC FOR UNEMPLOYED PARENTS

A second economic--legal issue, which would not be at all politically popular, is the absence of the AFDC-UP or "unemployed parent" program in this State. To get AFDC in North Carolina (which is only \$167 for a family of one parent and one child), you cannot have two parents in the home unless one of them is disabled. This means that no matter how impossible it is to find work, the family is without income totally (except for Food Stamps) if both parents remain living together. I have never had a client confess to this, but I suspect that families break up in order for the mother and children to have some income--even this small amount. The father must choose between staying at home and having no income for rent and other necessities, or moving out and seeing his family better off. Families would be better off if they could stay together and get this tiny amount of money, and, of course, they would be required to keep looking for a job. With the unemployment rate rising rapidly, the need for this program is more important than ever.

MALE CONTROL OF ENTIRETIES PROPERTY

My third issue is not related to the poorest women but is a law that is one of the biggest anachronisms we have in this State. I call it the Lord and Master Rule and the legislature has failed to abolish it in the last three sessions. Of course, I am referring to the law that says when a husband and wife own property by the entireties that produces rents or profits, the husband has the right to manage and collect these profits and he does not even have to account to his wife for it.

This law is demeaning to women. It says to a woman, "I don't care how bright you might be or how big a clod or a booger or a spend

thrift your husband might be, we are going to conclusively presume that your husband is a better manager than you and you must trust him to provide you with your fair share--with no recourse to the courts."

I have heard of a case that graphically illustrates the unfairness of this law. A man who was in prison rented out a house that he and his wife owned to his girlfriend and kept the profits. The district court held he had the right to do this.

Please get rid of this one.

#### AMENDMENTS TO THE EQUITABLE DISTRIBUTION OF PROPERTY ACT

Next, I will suggest three possible amendments to the Equitable Distribution of Property Act. First, there is vigorous debate among lawyers now as to whether the act allows courts to protect property and preserve the status quo during the year of separation while waiting for the divorce. I know several sponsors of the bill think this is clear--that the courts can issue restraining orders, but we do not yet know how the courts will interpret this and you may hear about this again. Obviously, we want the housewife who has very little of the marital property in her name to be able to apply this new act to something at the end of the year's separation.

Secondly, making pensions separate property is very unfair. A family may have mutually agreed that the wife will be a homemaker. In many cases, the pension may be the major asset of the family. The wife who has facilitated the husband's career should not be cut out of this.

Thirdly, the provision that states that increases in value of separate property are also separate property is too broad. For example, a man may own a business before he marries and during the marriage the wife runs the home for him and maybe even helps out with the business as it multiplies in value over the years. This apparently would all be separate property and the wife would be left with nothing.

I do not want to leave this subject without applauding the General Assembly for taking the major step forward of passing this act in 1981.

#### DOMESTIC VIOLENCE PROGRAM FUNDING

My fifth plea is a plug for money for projects to prevent domestic violence in the State. All the legal remedies cannot give the same protection that a safe haven can. We desperately need shelters. All the shelters that have been created are filled to capacity and foundations have been swamped with requests.

Though the 1979 Domestic Violence Act helped a tremendous amount, it does not provide all the answers. The law responds to crime; it does not necessarily prevent it. I know of one case where a

man who was actually detained for lack of bail used his one call to ask a friend to beat up his wife. Women needing the contempt power of the court to enforce a protective order may not be able to hire a lawyer to enforce it. Despite the clarity of the new domestic trespass act, many magistrates still believe that a woman must have "legal separation papers" to take out a criminal trespass warrant against her husband.

Although nothing guarantees protection, shelters go a long way toward giving women this protection and the time and space to unclutter their minds. Imagine living in a home where you are subject to being awakened in the night to be beaten. A woman who has lived under fear must have a place to put her life together.

Thank you for inviting me. I hope I have not overloaded you with suggestions.

## PRESENTED BY TRAVIS PAYNE, ATTORNEY, January 18, 1982

## NORTH CAROLINA STATISTICS FOR CHILD SUPPORT ENFORCEMENT PROGRAM

	Fiscal Year 1976	Transition Quarter	Fiscal Year 1977	Fiscal Year 1978	Fiscal Year 1979	Fiscal Year 1980	1980 Quarterly Average
Total Collections	167,050	229,712	3,105,804	7,696,676	9,168,228	11,443,344	
AFDC Collections	105,793	193,939	2,671,072	6,661,130	7,714,074	9,414,005	
Non-AFDC Collections	61,287	35,773	434,732	1,035,546	1,454,154	2,029,339	
Federal Share of AFDC						4,973,666	
Incentive Payments						1,252,812	
State Share of AFDC						3,154,207	
Total Administrative Expenditures	1,109,041	652,336	3,093,485	4,872,423	5,800,373	7,320,370	
Expenditures - Service Agreements						236,711	
Expenditures - Cooperative Agreements						21,741	
Federal Share of Expenditures						5,490,278	
State Share of Expenditures						1,830,092	
AFDC Expenditures						7,059,181	
Non-AFDC Expenditures						261,189	
Total Caseload							91,102
AFDC Caseload							83,286
Non-AFDC Caseload							7,816
Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of AFDC							9,457
Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of Non-AFDC							2,360
Fees Received for Non-AFDC Cases						14,722	
AFDC Child Support Collections Per Dollar of Total Expenditures						1.29	
Total Collections Per Dollar of Total Expenditures						1.36	
AFDC Collections Per Dollar of AFDC Expenditures						1.33	
Non-AFDC Collections Per Dollar of Non-AFDC Expenditures						7.77*	

\*Calculated

UNITED STATES STATISTICS FOR CHILD SUPPORT ENFORCEMENT PROGRAM

1980  
Quarterly Average

Fiscal Year  
1980

Fiscal Year  
1979

Fiscal Year  
1978

Fiscal Year  
1977

Transition  
Quarter

Fiscal Year  
1976

Total Collections 511,676,067 180,873,718 863,704,311 1,047,981,403 1,333,259,009 1,477,699,706

AFDC Collections 203,551,344 82,730,770 422,562,514 471,567,464 596,626,441 603,208,736

Non-AFDC Collections 308,124,723 98,142,948 441,141,797 576,413,939 736,632,568 874,490,970

Federal Share of AFDC 246,285,187

Incentive Payments 72,442,950

State Share of AFDC 274,464,845

Total Administrative Expenditures 138,893,889 49,686,232 277,380,192 317,943,656 357,997,008 450,570,696

Expenditures - Service Agreements 38,984,964

Expenditures - Cooperative Agreements 180,137,203

Federal Share of Expenditures 337,727,413

State Share of Expenditures 112,843,283

AFDC Expenditures 382,948,703

Non-AFDC Expenditures 67,621,993

Total Caseload 5,425,788

AFDC Caseload 4,357,751

Non-AFDC Caseload 813,037

Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of AFDC 496,746

Number of Absent Parents from Whom a Collection was Made in Second Month of Each Quarter on Behalf of Non-AFDC 381,377

Fees Received for Non-AFDC Cases 4,955,329

AFDC Child Support Collections Per Dollar of Total Expenditures 1.34

Total Collections Per Dollar of Total Expenditures 3.30

AFDC Collections Per Dollar of AFDC Expenditures 1.56

Non-AFDC Collections Per Dollar of Non-AFDC Expenditures 12.93\*

\*Calculated

Fannie Longley<sup>e</sup> Thomason, Fayetteville, N. C.

Homemaker, wife, mother

Former President \* Junior League of Fayetteville

Founder, first Chairman of Board - Fayetteville Day Nursery (first  
community sponsored child care facility in Cumberland County)

Board member and officer of other volunteer organizations, Fayetteville

Delegate - White House Conference on Aging *City, Cumberland County, State and usury Committee  
for aging*

We, men and women are an aging society. Today one in every seven

Americans is 60 years old or over. When today's preschooler turns 60, one  
in every four will be that age or older.

When in 1978 Congress authorized the 1981 W.H.C.A. it called for  
emphasis to be placed on the "right and obligation of older individuals  
to free choice and self-help in planning their futures."

The pervasive question throughout <sup>the 1981 W.H.C.A.</sup> was one of budget and economic  
crisis. The 1961 and 1971 Conferences were held in periods of economic  
plenty. The 1981 Conference was different. We as a nation have experienced  
no real economic growth in five years. Three times in the past two years  
we have had interest rates at above twenty percent. Social Security has  
run into financing difficulty. More than 200 <sup>or 344</sup> separate federal programs  
exist to help the elderly. These programs cost the taxpayer 25 percent of  
the national budget. Spiraling inflation, the economic enemy of every  
American, especially the older adult is rampant. Indeed many economists  
are saying that government intervention, regulatory policies, and high  
taxation have strangled our economy.

These were some of the realistic ground rules that pervaded the  
conference.

The results of the fourteen separate committees produced over six  
hundred resolutions, some in conflict with each other. Major innovative  
approaches were not achieved. Too many professionals limited their sights  
and interests to their own special areas. However, time and again committees  
heard a question from actual senior delegates themselves, as separate from  
service providers and other special interests, "What can I do for myself?"  
(This was perhaps the most positive and hopeful emphasis of all).

In a Constitutional - Representative system, such as ours the American people are echoing this Senior question "What can I do for myself?" We must be pragmatic in solving our problems, <sup>What can I do for the elderly</sup> for we cannot continue to proliferate the social programs in this nation. One of the marked characteristics of many helping professionals receiving tax monies, is that they are not accountable to the people who pay for their services, or to the people who receive them.

The American family must never stoop to the depth that would accept government funds to provide love and care to their own family members. While no person wishes to be a burden on his children or family, it is far more objectionable to be a burden on the taxpayers. The family ranks first as the traditional American "support system" and <sup>with</sup> the church and volunteer organizations must band together to provide human nurture and humane services to our elderly.

The trend toward total government services cannot be turned around instantly, <sup>(rather)</sup> but we must turn back to our strong American belief that with freedom comes personal responsibility. The government should not continue generation after generation as the primary provider of services to the elderly. The growing inequitable tax burden to oncoming generations is staggering and must not continue.

<sup>without</sup> As we have in place adequate <sup>basic</sup> services to provide for the elderly, I purpose that no new State or Federal programs be initiated.

\* Report of Special Committee on Aging of the House of Representatives on Aging in United States Oct. 7, 1977 pages 17-18

INTRODUCED BY:

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND CHAPTER 50 OF THE GENERAL STATUTES TO ESTABLISH PROCEDURES  
3 TO INSURE PAYMENT OF MAINTENANCE OR CHILD SUPPORT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 50 of the General Statutes is amended by  
6 adding a new section to read as follows: "50-13.9 Procedure to insure  
7 payment of child support. --

8 (a) Upon its own motion or upon motion of either party, the court  
9 may order at any time that maintenance or support payments be made to the  
10 clerk of court as trustee for remittance to the person entitled to receive  
11 the payments.

12 (b) The clerk of court shall maintain records listing the amount  
13 of payments, the date payments are required to be made, and the names and  
14 addresses of the parties affected by the order.

15 (c) The parties affected by the order shall inform the clerk of  
16 court of any change of address or of other condition that may affect the  
17 administration of the order.

18 (d) If a party fails to make a required payment, the clerk of court  
19 shall send by first class mail notice of the arrearage to the obligor.  
20 The clerk shall assess the obligor five dollars (\$5.00) cost of court for  
21 this mailing. If payment of the sum due is not made to the clerk of court  
22 within 10 days after sending notice, the clerk of court shall certify the  
23 amount due, including the costs of court, to the [prosecuting attorney,  
24 district attorney or IV-D attorney]. The [prosecuting attorney, district

1 attorney or IV-D attorney] shall promptly initiate contempt proceedings against  
2 the obligator.

3 (e) The [prosecuting attorney, district attorney or IV-D attorney]  
4 shall assist the court on behalf of a person entitled to receive maintenance  
5 or support in all proceedings initiated under this section to enforce compli-  
6 ance with the order. The person to whom maintenance or support is awarded  
7 may also initiate action to collect arrearages.

8 (f) If the person obligated to pay support is beyond the jurisdiction  
9 of the court, the [prosecuting attorney, district attorney or IV-D attorney]  
10 may institute any other proceeding available under the laws of this State  
11 for enforcement of the duties of support and maintenance."

12 Sec. 2. This act shall become effective October 1, 1982.

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**RECEIVED**

Outline for Remarks to  
Legislative Research Study Committee on the Economic, Social and **April 10 1982**  
Problems and Needs of the Women of the State of North Carolina  
on proposal to amend Chapter 50 of the General Statutes.

LEGISLATIVE SERVICES OFFICE

Madame Chairman, members of the Committee, your Counsel asked me to appear before you today with a fiscal note on the effects your proposed amendment to Chapter 50 would have on the court system.

To appreciate the transition that would be required if this proposed bill was enacted, it is necessary to understand the present accounting system for alimony and support. The accounting system is totally manual in 69 counties, and maintained on electronic bookkeeping equipment in the remaining 31 counties. The system in all counties is a subsidiary ledger procedure with a separate card for each account which card I have a sample of for you. It is utilized primarily as a clearing mechanism for cash receipts and disbursements of alimony and support. The subsidiary ledger does, however, list the required data as asked for in the committee proposal. Accordingly, no additional cost is incurred by the bill's requirement of maintaining certain data.

Under the present accounting system, the subsidiary ledgers for each account are generally generated upon the first payment, and not when the order is issued. This means that there is no accounting record of the alimony and support account until the first payment is received in the Clerk's office. This procedure exists because it has always been assumed that the enforcement of alimony and support payments lies with someone other than the Clerk's office. Currently, some counties are able to support a review of these accounts and assist in enforcing these orders. Without the direct responsibility of enforcement, however, the Clerks' offices have had no reason to maintain procedures to determine accounts in arrears and followup.

In maintaining the subsidiary ledger, there is a tremendous amount of time now being spent in the accounting sections in the Clerks' offices on alimony and support. Due to the limited manpower in many of the Clerk's offices, a policy has been established in some counties not to respond to telephone inquiries about these accounts. Involvement by the Clerk's accounting personnel with the accounts has generally been limited to an exception basis. This means followup on arrearage is only directed to the

accounts in which the complainant, district attorney, judge, etc., inquire about the status of the payments.

At first glance, it would appear that statewide application of this bill would be expensive now and in the future due to the additional costs for employees and equipment. To determine the impact of this proposal on the court system, (Clerks' offices, District Attorneys, Judges), an intense study and review is needed. We are presently performing a "time and motion" study in a selected number of counties to determine factors to base a cost analysis on.

However, we have made a preliminary review of a sample of Clerks' offices to form an initial opinion of the additional costs if this bill is enacted.

The following is data from this review:

- A sample of eight counties, covering the vast geography of this State, revealed an estimated 75,000 - 85,000 alimony and support accounts statewide. However, in the absence of a detailed study of a larger sample, it is very difficult to determine if the number of accounts run consistent with the size of the county. The eight sample counties were used to factor the total number of accounts.

- With the initial sample, we compiled the following record count data:

<u>County Population Group</u>	<u># of Counties</u>	<u>Estimated # of Accounts</u>	<u>Average # of Accounts</u>	<u>Estimated Total # of Accounts</u>
200,000 and up	5	3500 - 4500	4000	20,000
100,000 - 199,999	8	1500 - 3000	2250	18,000
50,000 - 99,999	27	600 - 1200	900	24,300
20,000 - 49,999	37	200 - 600	400	14,800
up to 19,999	23	up to 200	100	<u>2,300</u>
				<u>79,400</u>

- Estimated labor required to review these accounts on a monthly basis (any other frequency can be calculated based on these figures. Must note that ordered payments are varied):

<u>Monthly Procedure</u>	<u>Time Required Per Account</u>	<u>Total # of Accounts</u>	<u>Total Hours Required</u>
Review individual account	1 minute	80,000	1334
Pull account and calculate arrears (30% in arrears)	3 minutes	24,000	1200
Type notice to obligor and mail	2 minutes	24,000	800
Follow-up (pending files and compare, submit to DA)	<u>5 minutes</u>	24,000	<u>2000</u>
	11 minutes/account		5,334 Total Hours per Month

Figures based on limited "time/motion" estimates only, from field accountant's experience.

Cost for assistant or deputy clerk capable of performing this task totals \$13,000 annually (not including equipment), \$6.25 per hour (cost includes).

Thirty-one new employees minimum needed. Pay Grade 56, Step 1. Monthly cost \$33,337.50. Annual Cost \$400,050.

- Equipment costs, minimum - new electronic calculator for new employee, not usually purchased for new assistant or deputy clerk; \$140 each x 31 = \$4340, first year costs.
- New accounting equipment would be too expensive to purchase for just this purpose. Electronic accounting equipment would range from \$18,000 - \$30,000. The Thirty-one counties that now have some electronic accounting equipment would need program changes to assist in the enforcement and this equipment would not alter the labor estimates on preceding page (\$5500 program). In-depth study is needed to determine statewide equipment needed. Currently, Chris Marks, our Controller, is talking to vendors about current availability. But we could not justify upgrading our equipment based on this single requirement.
- Postage monthly -- first class mailing 24,000 statewide \$4800 monthly. \$57,600 annually.
- Recap.

Personnel cost	\$ 400,050
Software (existing equipment)	5,500
Equipment	4,340
Postage (Notices)	57,600
Estimated costs	<hr/>
Estimated costs	\$ 467,490

\* \* \* \* \*

Franklin E. Freeman, Jr.  
Administrative Office of the Courts





1 decree, provisions for the support of a child are terminated by emancipation  
2 of the child but not by the death of a parent obligated to support the child.  
3 When a parent obligated to pay support dies, the amount of support may be  
4 modified, revoked or commuted to a lump sum payment, to the extent just and  
5 appropriate in the circumstances."

6           Sec. 2. This act shall become effective October 1, 1982.

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SESSION 19 82

INTRODUCED BY:

Referred to:

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A BILL TO BE ENTITLED

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AN ACT TO AMEND G. S. 50-13.6 TO REQUIRE PAYMENT OF COUNSEL FEES TO A PARTY

3

ACTING IN GOOD FAITH IN ACTIONS FOR CUSTODY OR SUPPORT OF MINOR CHILD.

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The General Assembly of North Carolina enacts:

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Section 1. G. S. 50-13.6 is rewritten to read as follows:

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"§50-13.6. Counsel fees in actions for custody and support of minor

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children. -- In an action or proceeding for the custody or support, or both,

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of a minor child, including a motion in the cause for the modification or

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revocation of an existing order for custody or support, or both, the court

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shall, after opportunity for hearing, require the party whose conduct neces-

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sitated the proceeding to pay reasonable attorney's fees to the interested

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party acting in good faith, unless the court finds that the opposition to the

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action or proceeding was substantially justified or that other circumstances

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make an award of expenses unjust."

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Sec. 2. This act shall become effective October 1, 1982.

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SESSION 19<sup>82</sup>

INTRODUCED BY:

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REWRITE G. S. 49-4 TO ALLOW THE INSTITUTION OF THE PROSECUTION  
3 OF A REPUTED FATHER OF AN ILLEGITIMATE CHILD ANY TIME BEFORE THE CHILD  
4 ATTAINS THE AGE OF EIGHTEEN YEARS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G. S. 49-4 is rewritten as follows: "§49-4 When  
7 prosecution may be commenced -- The prosecution of the mother or reputed  
8 father of an illegitimate child may be instituted under this Chapter at any  
9 time before the child attains the age of 18 years."

10 Sec. 2. This act shall become effective October 1, 1982.

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INTRODUCED BY:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND G.S. 14-322 TO PERMIT GARNISHMENT OF UP TO FORTY PER CENT (40%) OF WAGES FOR WILFUL FAILURE TO PROVIDE CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-322 is amended by inserting a new subsection to read:

"(g) A prosecution for violation of subsection (d) may include a petition by the prosecuting witness or another properly interested person for a garnishment order for the child's support as provided in G.S. 110-136. If a petition for garnishment is made part of the criminal proceeding, the notice requirements of G.S. 110-136 do not apply and notice is sufficient if the garnishment petition is served on the parent and his employer at least 10 days before the garnishment hearing. A conviction for violation of subsection (d) is sufficient grounds for issuance of the garnishment order, and the hearing on garnishment may be held at any time following the entry of judgment."

Sec. 2. G.S. 49-8 is amended by adding a new subdivision to read:

"(6) Order garnishment of no more than forty per cent (40%) of the defendant's monthly disposable earnings for support of the child as provided by G.S. 110-136, if the prosecution for violation of G.S. 49-2 has included a petition by the prosecuting witness or another properly interested person for garnishment. If a petition for garnishment is made part of the criminal proceeding, the notice requirements of G.S. 110-136 do not apply and notice

1 is sufficient if the garnishment petition is served on the parent and his  
2 employer at least 10 days before the garnishment hearing. A conviction  
3 for violation of G.S. 49-2 is sufficient grounds for issuance of the garnish-  
4 ment order, and the hearing on garnishment may be held at any time following  
5 the entry of judgment."

6           Sec. 3. This act shall become effective October 1, 1982.

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SESSION 19 81

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INTRODUCED BY:

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Referred to:

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A BILL TO BE ENTITLED

2 AN ACT TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981

3 TO INCLUDE THE INCOME FROM SEPARATE PROPERTY AND INCREASE IN VALUE

4 OF SEPARATE PROPERTY WHICH ACCRUES DURING THE MARRIAGE AS MARITAL

5 PROPERTY.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 50-20(b)(1) is amended by adding a new sentence

8 at the end thereof to read:

9 "'Marital property' includes an increase in value of separate property

10 and the income from separate property which accrues during the course of

11 the marriage."

12 Sec. 2. G.S. 50-20(b)(2) is amended by deleting the fourth

13 sentence in its entirety.

14 Sec. 3. This act is effective upon ratification.

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SESSION 19 81

INTRODUCED BY:

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981  
3 TO INCLUDE PENSION RIGHTS AS MARITAL PROPERTY.  
4 The General Assembly of North Carolina enacts:  
5 Section 1. G.S. 50-20(b)(1) is amended by adding a new sentence  
6 at the end thereof to read:  
7 "'Marital property' includes vested pension or retirement rights  
8 and the expectation of nonvested pension or retirement rights.  
9 Sec. 2. G.S. 50-20(b)(2) is amended by deleting the last sentence.  
10 Sec. 3. G.S. 50-20(c)(5) is repealed and the succeeding subdivisions  
11 are renumbered accordingly.  
12 Sec. 4. This act is effective upon ratification.  
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INTRODUCED BY:

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A BILL TO BE ENTITLED

AN ACT TO AMEND EQUITABLE DISTRIBUTION OF MARITAL PROPERTY ACT OF 1981  
TO PREVENT THE UNAUTHORIZED DISPOSAL OF MARITAL PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G. S. 50-21 is amended after the second sentence by  
inserting a new sentence to read:

"Upon filing any action for divorce as provided in Chapter 50; specifically including divorce from bed and board as provided in G. S. 50-7, any action for custody and support as provided in G. S. 50-13.5, any action for alimony and alimony pendente lite as provided in G. S. 50-16.8, and in any action alleging domestic violence as provided in G. S. 50B-2; a party may seek a restraining order to prevent disposal of real or personal property which either party may claim as marital property."

Sec. 2. This act shall become effective upon ratification.



## GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1981

HOUSE BILL 67

Short Title: Tenancy by the Entirety Amendments (Public)

Sponsors: Representatives Lancaster; Allan, Blue, Brennan,  
Burnley, Cook, Edwards, Bob Etheridge, Bruce Ethridge, Evans,\*  
 Referred to: Judiciary II.

January 26, 1981

## A BILL TO BE ENTITLED

1  
 2 AN ACT TO EQUALIZE BETWEEN MARRIED PERSONS THE RIGHT TO INCOME,  
 3 POSSESSION, AND CONTROL IN PROPERTY OWNED CONCURRENTLY IN  
 4 TENANCY BY THE ENTIRETY.

5 The General Assembly of North Carolina enacts:

6 Section 1. Article 2 of G.S. Chapter 39 is amended by  
 7 adding a new section to be numbered 39-13.6 and to read as  
 8 follows:

9 "§ 39-13.6 Control of real property held in tenancy by the  
 10 entirety.--(a) A husband and wife shall have an equal right to  
 11 the control, use, possession, rents, income, and profits of real  
 12 property held by them in tenancy by the entirety. Neither spouse  
 13 may bargain, sell, lease, mortgage, transfer, convey or in any  
 14 manner encumber any property so held without the written joinder  
 15 of the other spouse. This section shall not be construed to  
 16 require the spouse's joinder where a different provision is made  
 17 under G.S. 39-13, G.S. 39-13.3, G.S. 39-13.4, or G.S. 52-10.

18 (b) A conveyance of real property, or any interest therein, to  
 19 a husband and wife vests title in them as tenants by the entirety  
 20 when the conveyance is to:

21

- 1 (1) a named man 'and wife,' or  
2 (2) a named woman 'and husband,' or  
3 (3) two named persons, whether or not identified in the  
4 conveyance as husband and wife, if at the time of  
5 conveyance they are legally married, unless a  
6 contrary intention is expressed in the conveyance.

7 (c) A conveyance of real property, or any interest therein,  
8 which establishes a tenancy by the entirety shall be valid when  
9 the conveyance is from:

- 10 (1) a man to himself and his wife, or  
11 (2) a woman to herself and her husband, or  
12 (3) a third party;

13 regardless of the source of the consideration.

14 (d) This section shall apply to all conveyances on and after  
15 January 1, 1982. For income tax purposes effective for taxable  
16 years beginning on and after January 1, 1982, the income from  
17 property held in tenancy by the entirety shall be reportable 1/2  
18 (one-half) by each spouse regardless of when the conveyance of  
19 the property was made."

20 Sec. 2. This act shall become effective on January 1,  
21 1982.

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23 \*Additional sponsors: Fenner, Foster, Fulcher, Gay, Hackney,  
24 Hayden, Bertha Holt, Jack Hunt, Patricia Hunt, Jones, Keesee,  
25 Lutz, McDowell, Musselwhite, Pulley, Rabon, Spaulding, Thomas,  
26 and Woodard.



**North Carolina**  
**Department of Administration**  
 116 West Jones Street      Raleigh 27611      (919) 733-7232

James B. Hunt, Jr., Governor

Jane Smith Patterson, Secretary

April 1, 1982

Ms. E. Ann Christian  
 Staff Attorney  
 Legislative Research Commission  
 Raleigh, North Carolina 27611

Dear Ms. Christian:

In your March 8, 1982 letter, you requested that the Department of Administration supply the Committee on the Economic, Social and Legal Problems and Needs of Women with information regarding the composition and work of the Council on the Status of Women. In particular, you asked the Department to describe: (1) how the Council was formed; (2) who composes it; (3) the length of its members' terms; and (4) the nature of its work. This information is provided below.

1. How the Council Was Formed.

The North Carolina Council on the Status of Women was created in 1963 as the Commission on the Status of Women by Executive Order of Governor Terry Sanford. The General Assembly made the Commission statutory in 1965 and changed the name to the Commission on the Education and Employment of Women. In 1972, funds were appropriated to hire a staff. In 1975, the agency was renamed the North Carolina Council on the Status of Women. Additional responsibilities were given to the Council by the General Assembly in 1977 and 1979.

2. Who Composes the Council.

The 20-member Council is appointed by the Governor. This number was increased from 7 to 20 by the 1977 General Assembly. The Council has staff in Raleigh and in six regional offices. Members include homemakers and businesspeople. These men and women are representative racially and geographically. Minority membership includes the chair and three other black females, one black male, and one Indian female. See Attachment 1 for a list of the current Council members.

Local Councils on the Status of Women, which have no official or financial ties with the State Council, work on the local level in cooperation with the State Council.

3. Length of Members' Terms.

All Council members serve a two year term. Terms are staggered.

4. Nature of the Work of the Council.

The primary responsibility of the Council on the Status of Women is to advise the Governor, the North Carolina Legislature and principal state agencies concerning the education and employment of women in North Carolina. It may also advise the Secretary of Administration on any matter which the Secretary may refer to it. In 1977, the Office of the Coordinator of Services for Victims of Sexual Assault was created at the Council by legislative mandate. The statute was also amended in 1979 to authorize the establishment of programs for the assistance of displaced homemakers.

The Council also works to identify and assess women's needs, collects and distributes information, coordinates efforts within the state to meet the special needs of women, and develops and assists county and regional Councils on the Status of Women.

Commitment to improving the economic status of women has been the top priority of the Council, but it is also committed to providing assistance to alleviate some of the special problems that women face, such as spouse abuse and sexual assault.

The Council has established task forces on Women and North Carolina Law, the Needs of Minority Women, and Women and Economic Development. These groups make recommendations to the Council which in turn, makes recommendations to other agencies and the Governor and the General Assembly. Other ongoing task forces are those on Sexual Assault and the Governor's Task Force on Domestic Violence.

If you need any further information or clarification of this information, please contact me. I will be available at the Committee meeting on April 5 in order to respond to any questions that the Committee might have.

Sincerely,



Jane Smith Patterson

JSP/scw

Attachments

SESSION 19 81

INTRODUCED BY:

Referred to:

1

A BILL TO BE ENTITLED

2 AN ACT TO RATIFY THE PROPOSED EQUAL RIGHTS AMENDMENT TO THE UNITED STATES

3

CONSTITUTION.

4 The General Assembly of North Carolina enacts:

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6 Section 1. The following amendment to the United States Con-  
7 stitution, proposed by the 92nd Congress of the United States, is hereby  
8 ratified by the North Carolina General Assembly:

8

"ARTICLE \_\_\_\_.

9

10 "Section 1. Equality of rights under the law shall not be denied  
11 or abridged by the United States or by any state on account of sex.

12 "Sec. 2. The Congress shall have the power to enforce, by appropriate  
13 legislation, the provisions of this Article.

14 "Sec. 3. This amendment shall take effect two years after the date  
15 of ratification."

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17 Sec. 2. The Governor shall send certified copies of this act  
18 to the Administrator of General Services, Washington, D.C., the President  
19 of the Senate and the Speaker of the House of Representatives of the United  
20 States Congress.

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22 Sec. 3. This act is effective upon ratification.

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1981

HOUSE BILL 1148

Short Title: Spouse Abuse Program Funds. (Public)

Sponsors: Representatives Brennan; Easterling and Colton.

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Referred to: Appropriations.  
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June 4, 1981

- 1 A BILL TO BE ENTITLED  
2 AN ACT TO APPROPRIATE FUNDS FOR SPOUSE ABUSE PROGRAMS.  
3 The General Assembly of North Carolina enacts:  
4 Section 1. There is appropriated from the General Fund  
5 to the Department of Administration for fiscal year 1981-82 the  
6 sum of two hundred fifty thousand dollars (\$250,000), and for  
7 fiscal year 1982-83 the sum of two hundred fifty thousand dollars  
8 (\$250,000) to fund spouse abuse programs,  
9 Sec. 2. The Secretary of Administration may promulgate  
10 rules to determine eligibility requirements for grants under  
11 Section 1 of this act.  
12 Sec. 3. This act shall become effective July 1, 1981.

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INTRODUCED BY:

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Referred to:

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A BILL TO BE ENTITLED

2 AN ACT REGARDING THE COST OF BLOOD TESTS IN CASES IN WHICH THE QUESTION

3 OF PARENTAGE ARISES:

4 The General Assembly of North Carolina enacts:

5 Section 1. The first sentence of G.S. 8-50.1(a) is amended

6 by deleting the word "regardless" and substituting the following:

7 "the court shall advise the defendant of his right to request blood  
8 tests. Regardless".

9 Sec. 2. G.S. 8-50.1(a)(2) is rewritten to read:

10 "(2) By requiring the State or the defendant, requesting blood tests  
11 and comparisons pursuant to this subsection to be initially responsible  
12 for any of the expenses thereof, except that if the defendant is indigent,  
13 the State shall be responsible for those expenses; and upon the entry of  
14 a special verdict incorporating a finding of parentage or non-parentage,  
15 by taxing the expenses for blood tests and comparisons, in addition to  
16 any fees for expert witnesses allowed per G.S. 7A-314 whose testimonies  
17 supported the admissibility thereof, as costs in accordance with G.S. 7A-304,  
18 Article 7 of G.S. Chapter 6, or G.S. 7A-315, as applicable."

19 Sec. 3. The first sentence of G.S. 8-50.1(b) is amended by  
20 deleting the phrase "arises, the" and substituting the following:

21 "arises, the court shall advise the parties of their right to request  
22 blood tests. The".

23 Sec. 4. G.S. 8-50.1(b)(2) is rewritten to read:

24 "(2) By requiring the plaintiff, alleged-parent defendant or other

1 interested party requesting blood tests and comparisons pursuant to this  
2 subsection to be initially responsible for any of the expenses thereof,  
3 except that if the party requesting the tests is indigent, the State shall  
4 be responsible for those expenses; and upon the entry of a verdict of parentage  
5 or non-parentage, by taxing the expenses for blood tests and comparisons,  
6 in addition to any fees for expert witnesses allowed per G.S. 7A-314 whose  
7 testimonies supported the admissibility thereof, as costs in accordance  
8 with the provisions of G.S. 6-21."

9           Sec. 5. This act shall become effective October 1, 1982.

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